HIGHWAY LAWS OF INDIANA

IN THE

OPENING, LOCATING, VACATING, CHANGING AND REPAIRING

OF

PUBLIC HIGHWAYS

TO WHICH IS ADDED THE

Dog, Game, Fish, Stock, Fence, Forestry, Fruit and Stock Food Laws, and the Law Concerning Automobiles.

WITH A COMPLETE INDEX.

INDIANAPOLIS:

INTRODUCTION.

By the statute laws of Indiana, everything dedicated to or used by the public for travel upon is denominated a highway. This will include county and township roads, bridges, culverts, fences, fords, plank roads, gravel roads, turnpikes, streets, alleys, street railways, navigable rivers, navigable creeks, tow-paths, etc.

The object of the publisher in presenting this work to the public has been to collect, in a cheap and convenient form, the laws governing the highways of Indiana, now in force.

To this is added the dog law, game law, fish law, fence, forestry, fruit, automobile and stock food laws, now in force.

These laws affect the interests of the entire mass of the people.

AN ACT concerning highways.

[Acts 1905, p. 521. Approved March 8, 1905. In force April 15, 1905.]

LOCATION, VACATION AND CHANGE.

Highways—Location, Etc.—Petition and Notice.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That whenever twelve freeholders of the county, six of whom shall reside in the immediate neighborhood of the highway proposed to be located, vacated, or change therein made, shall petition the board of commissioners of such county for the location, vacation, or change thereof, such board, if satisfied that said petition has been filed with the county auditor and notice thereof has been given by publication once each week for two consecutive weeks successively in a newspaper published in said county, or by posting up notices thereof in three of the most public places in the neighborhood of such highway at least twenty days before the meeting of the board at which petition is to be heard, and, in case of posting, by the auditor mailing a copy of such notice to the postoffice address of each land owner affected by such proceedings, as disclosed by the petition, twenty days before the said day of hearing, providing said postoffice address can be ascertained from any record or files in his office, shall appoint three disinterested freeholders of the county to view said highway. Said notices for publication, posting and mailing, shall be by and over the name of the county auditor. It shall not be necessary for the auditor to mail a copy of said notice to any person who is a petitioner. (As amended. Acts 1907, p. 443.)

Highways—Viewers—Boundary Line—New Roads.

SEC. 2. The auditor of such county shall issue a precept [precipe] to the sheriff thereof, commanding him to notify such viewers of the time, place and object of their meeting. Such viewers, at such time, after having taken an oath, before some officer authorized to administer the same, faithfully to perform their duties, shall proceed to view the highway to be located, or vacated or the change to be made; and if they shall deem such location, vacation or change to be of public utility, they shall, in case of a new highway or change in an old one proceed to lay out and mark the same on the best ground, not running through any person's enclosure of one year's standing without the owner's consent, unless upon examination a good way cannot otherwise be had without departing essentially from the route petitioned for: *Provided,* That where the road is laid out upon the line dividing the land of two persons, it shall be laid one-half on each side of such line: *and Provided, further,* That whenever the location of a highway is petitioned for upon and along any line which forms also the boundary of any

city, or town, the board of commissioners shall, for the purpose of locating such highway have jurisdiction over the lands and lots lying within such corporate limits, and immediately affected by such proceedings and location; and the owners of such lands and lots so affected, shall have the same rights and remedies in the matter of location, vacation or change of such highway as the owners of the lands lying on the opposite side thereof, and outside of such city or town: *and Provided, further,* That whenever the location of a highway is petitioned for which crosses the boundary or corporation line of any city or town and terminates therein, the county commissioners with the approval of the board of public works in cities having such boards and of the city council in other cities and the town board of any town, shall, for the purpose of locating or establishing such highway within such city or town a distance sufficient to connect or intersect said highway with some street, road, highway or avenue within such city or town, have jurisdiction and power to extend, continue and locate such proposed highway over such unplatted and unimproved lands, lying within such city or town, as it may be necessary to cross with such proposed highway, to reach the street, road, highway or avenue in such city or town at which such proposed highway shall terminate, connect or intersect, which said terminus shall in no case be beyond the first intersecting or connecting highway, street, road or avenue, to be reached within such city or town and the owners of such unplatted and unimproved lands, shall have the same rights and remedies in the matter of the locating of such highway, as they would have if their said lands were situate without such city or town. (As amended. Acts 1913, p. 679.)

Report of Viewers—Proceedings.

SEC. 3. Such viewers, or a majority of them, shall make a report of their proceedings at the ensuing session of the board of commissioners, giving a full description of such location, change or vacation, by routes [metes] and bounds, and by its course, distance and width, except that in case of the vacation of a road, or any part thereof, such description only as will designate it clearly shall be required; and, in such case, a copy of the order vacating such highway shall be transmitted by the proper auditor to the trustee of the township or trustees of the townships in which such vacated highway is situated, who shall cause the supervisor or supervisors thereof to be notified accordingly.

No Objection—Order and Notice.

SEC. 4. If no objection be made to such proposed highway, vacation or change, such board shall cause a record thereof to be made, and, in case of such location or change, shall order the highway to be opened, and kept in repair, which order shall be transmitted to the trustee of the township or trustees of the townships in which such location or change is made; and such trustee or

trustees shall cause a copy of such order to be entered at length on the township's record book or books, and notice thereof to be given to the proper supervisor or supervisors to work such highway as so located or changed.

Remonstrance for Damages—Reviewers.

SEC. 5. If any person through whose land such highway or change may pass shall feel aggrieved by reason of such location, vacation or change, such person may, at any time before final action of the board thereon, set forth such grievances by way of remonstrance under oath, stating therein that he is damaged thereby in a sum mentioned; and the said board shall thereupon appoint three disinterested freeholders of the county as reviewers, and assign a day and place for them to meet.

Reviewers—Oath and Duties.

SEC. 6. Such reviewers shall meet at the time and place designated, and take an oath faithfully to discharge the duties assigned them, and shall then, or on any other day to which a majority may adjourn, prior to the next session of such board, proceed to review the proposed highway and assess the damages, if any, which such remonstrator may sustain from such highway being opened, vacated or changed through his lands, and shall report the same to the ensuing session of such board.

Reviewers' Report—Action.

SEC. 7. If a majority of the reviewers assess and report damages in favor of the remonstrator, and the board shall consider the proposed highway, vacation or change to be of sufficient importance to the public, it shall order the costs and damages to be paid out of the county treasury; otherwise such costs and damages shall be paid by the petitioners or others interested. If a majority report against the claim for damages the remonstrator shall pay the costs. When payment of damages is made as herein provided, such highway shall be recorded and ordered to be opened and kept in repair, as hereinbefore provided, after notice to the proper trustees.

Another Review.

SEC. 8. If it shall be made to appear to the board that the damages assessed are unreasonable, it may set aside such assessment and order another review, under the same regulations as provided in case of the first review.

New Viewers—Utility and Damages—Duties.

SEC. 9. If any freeholder of, and residing in, such county shall remonstrate against the proposed highway at any time before final

action thereon, as not being of public utility, other reviewers may be appointed, who shall, after having taken an oath faithfully to discharge the duties assigned them, meet at the time and place designated and then, or on a day to be by them fixed, proceed to examine the proposed highway, and shall make report to such board at its next session, whether, in their opinion, the said highway, vacation or change will be of public utility: *Provided, however,* That a remonstrance for want of public utility and for damages may be filed at the same time, and may be referred to the same reviewers, who shall then be required to report both as to public utility and as to damages.

Action on Report.

SEC. 10. If a majority of the reviewers last named report against the public utility of such highway, vacation or change, the petition shall be dismissed; but if they report favorably thereto the remonstrator shall pay the cost of the review, and, in case of a location or change, the highway shall be recorded and ordered to be opened and kept in repair: *Provided, however,* That an appeal shall lie to the circuit court from any such order dismissing such petition or ordering such highway established, as provided in section one hundred and two of this act.

Highways—Opening—Damages.

SEC. 11. No such highway shall be opened, worked or used, until the damages assessed therefor shall be paid to the persons entitled thereto, or deposited in the county treasury for their use, or until such persons shall give their consent thereto in writing, filed with the auditor of the county: *Provided,* That if such damages are not so paid or deposited, or such consent given and filed within ninety (90) days after the filing of the report allowing such damages, the proceedings for the opening, or change of such highway shall be deemed to be vacated and of no force or effect whatsoever: *Provided, further,* That if such proceeding be appealed, the damages, if any, allowed on such appeal shall be so paid or deposited, or such consent given and filed within ninety (90) days after the disposition of such appeal, and if not done in such time, such proceeding shall likewise be deemed to be vacated and of no force or effect whatsoever: *Provided,* That in cases where damages have heretofore been assessed the same shall be paid within ninety days from the time this act takes effect. (As amended. Acts 1913, p. 11.)

Costs—Bond.

SEC. 12. Whenever any petition for the location, vacation or change of any public highway has been presented to the board of commissioners of any county in this state, and such board shall have appointed viewers for the same, and such viewers shall have reported that they deem the proposed location, vacation or change

of such highway of no public utility, no second or subsequent petition for the location, vacation or change of such highway shall be acted upon by the commissioners unless the petitioners shall first pay the former cost in full, and cost of such review, and file with the county auditor a bond with surety to be approved by him, conditioned that such petitioners will pay all such costs and the costs of such review if the reviewers appointed to view such proposed location, vacation or change of such highway, shall report that they deem the same of no public utility. (As amended. Acts 1907, p. 443.)

Who Can Not Be Viewers.

SEC. 13. No person owning lands, or who is related by consanguinity, within the sixth degree, to any person owning lands, along any highway proposed to be opened, vacated or changed shall be competent to act as viewer, or reviewer thereof.

Fences—Removal—Notice.

SEC. 14. Whenever any public highway shall have been laid out through any inclosed land, the supervisor shall give the occupant of such land, or the owner, if a resident of the road district, sixty days' notice in writing, to remove his fences; but such owner or occupant shall not be compelled to remove any such fence between the first day of April and the first day of November; and if such fence is not removed pursuant to such notice, such supervisor shall cause the same to be done at such owner's expense, which may be recovered in an action by the supervisor, in the name of the township trustee, before any justice of the peace in the county, and, in case of recovery, the judgment shall also include costs and attorney's fees.

Highways by Use—Width—Recording.

SEC. 15. All highways heretofore laid out according to law, or used as such for twenty years or more, shall continue as located and as of their original width, respectively, until changed according to law; and hereafter no highway shall be laid out less than thirty feet wide, and the order for the laying out of the same shall specify the width thereof. The board of commissioners shall have power to cause such of the roads used as highways as shall have been laid out, but not sufficiently described, and such as have been used for twenty years, but not recorded, to be ascertained, described and entered of record. Such action of the board shall be on petition filed by one or more resident freeholders of the county, of which petition notice shall be given by posting in three public places along the line of such road twenty days before the session at which such petition shall be considered. And such board shall declare and establish the width of any such highway, which width shall not be less than thirty feet; and where any such highway shall be located upon a line dividing the lands of different owners, one-half thereof shall be taken from the land of each owner.

Non-User of Highway.

SEC. 16. Every public highway already laid out, or which may hereafter be laid out, and which shall not be opened and used within six years from the time of its being so laid out, shall cease to be a highway for any purpose whatever; but if any distinct part thereof shall have been opened and used within six years, such part shall not be affected by the provisions of this section, nor shall this section be applied to streets and alleys in any city or town.

Petition to Change Location—Notice.

SEC. 17. Any person through whose land any highway heretofore located and established, or hereafter to be located and established, may run, may petition the board of commissioners of the proper county for permission to change the location of such highway on his land, or on the lands of any other person consenting thereto. Every such petitioner shall give notice of his intention to file such petition, by posting written or printed notices thereof, in three or more public places in the vicinity of such proposed change, for twenty days before the first day of the term of the board at which such petition is to be presented.

Viewers on Relocating—Duties.

SEC. 18. Upon the filing of such petition, and proof of notice as provided for in the preceding section, the board of commissioners shall appoint three disinterested freeholders of the county as viewers, who shall meet at such time as the board may appoint, and, after having been duly sworn, or affirmed, shall then, or on any other day to which the majority may adjourn prior to the next session of such board, proceed to view the premises; and they, or a majority of them, shall report the respective lengths of the established and proposed highway, and the situation of the ground along each, and whether, in their opinion, the public would be materially injured by such proposed change, and shall file their report with the board of commissioners at its next session thereafter.

Report—Remonstrance—Proceedings—Costs.

SEC. 19. Upon the filing of such report, and before action thereon, if the report be favorable to such change, any freeholder may file his remonstrance against the same, stating therein the reasons why such change ought not to be made, and an issue may be made thereon; and if the report of the viewers be unfavorable to such change, the petitioner may make an issue thereon, and any such issue shall be tried before the board of commissioners, as other issues of fact are tried; and if, upon the report of the viewers, or upon any issue tried as above, the board shall be

of opinion that the public will not be materially injured by such proposed change, it shall make an order granting permission to the petitioner to make such change, and upon satisfactory proof, then or thereafter, that the new road has been opened and improved, and made equally convenient for travelers, the board shall make an order vacating so much of the former highway as lies between the different points of intersection. All the costs of such proceeding shall be paid by the petitioner: *Provided,* That when a remonstrance is filed, and the issue found against the remonstrant, he shall pay all the costs occasioned by such remonstrance.

Compensations—Viewers—Surveyors.

SEC. 20. Viewers and reviewers, for each day engaged in viewing or reviewing a highway by order of any board of commissioners, shall receive two dollars. Surveyors, for their services in locating highways, will receive two dollars and fifty cents a day, and five cents for each mile necessarily traveled; and for making out a complete report of survey of such highway, one dollar, and, in case the survey exceed five miles, two dollars. Chainmen and axmen employed in such surveys will each receive one dollar and fifty cents a day.

Highways—County Line—Proceedings.

SEC. 21. In case of the proposed location, vacation, straightening or change of a public highway, extending into two or more counties, or in case any portion of such proposed highway extends along or upon a county line dividing two or more counties, jurisdiction as to all the proceedings shall be in the board of commissioners of the county before whom the petition is first filed; and such proceedings shall be the same as those hereinbefore provided for in case of the location, vacation or change of a public highway in one county, so far as the latter are applicable; except that the petition shall be signed by not less than twenty-four freeholders of one or more of the counties into which or along the county line of such counties into which such proposed highway to be located, vacated, straightened or change therein made is to extend, six of whom shall reside in the immediate neighborhood of the proposed highway, and not less than three of whom shall reside in each of such counties; except, also, that each set of viewers or reviewers to be appointed by such board of commissioners, shall be equal in number to the number of the counties to be affected, and one of whom shall be appointed by such board from each of such counties; and such viewer or reviewers so appointed shall have jurisdiction to act in all matters pertaining to such proposed location, vacation, straightening or change of such highway, the same as herein provided for the location, vacation, straightening or change of highway in one county so far as the same are applicable: *Provided, however,* That in case the number of such viewers or reviewers shall be even and

they cannot agree, the viewers or reviewers so appointed shall select another who shall perform the same duties and receive the same fees as the viewers or reviewers first appointed. Costs and damages shall be paid as in case of proceedings for the location, vacation, straightening or change in a highway in one county; but the county having jurisdiction of the proceedings shall be entitled to recover from each of the other counties a proportionate amount of the expenses paid out of its treasury according to the proportion of the length or width of such highway, if located along and upon the line of such counties, in each of such other counties, to be recovered as any claim due from one county to another. Whenever any such highway is located, vacated, straightened or changed as herein provided a certified copy of the order therefor shall be transmitted by the auditor of the county having jurisdiction of the proceedings to the auditor of each of the other counties and entered of record in the order book of the board of commissioners of each of such counties, and a copy of the order shall be transmitted by each of such auditors to the proper township trustees, as in case of a highway located, vacated, straightened or changed in one county. This act shall not affect any pending petitions, litigation or proceedings but the same shall be concluded and be effective in all respects as if this act had not been passed. (As amended. Acts 1913, pp. 705 and 706.)

On County Lines—Working—Proceedings, Etc.

SEC. 22. Whenever twelve freeholders of any county shall present to the board of commissioners a petition setting forth that a public highway, describing it, in their road district or districts, township or townships, is situated upon or near a county line, and has not been worked for a time to be stated, in consequence of a difference of opinion as to whose duty it was to work such highway, such board shall appoint as viewers two freeholders of the county, not belonging to the road district where such highway is required to be worked, who shall employ the county surveyor to perform the duties required by this section. The auditor of such county shall immediately, through the auditor of the other county, give notice to the commissioners of the county upon whose border such highway is situated of the filing of such petition, sending a copy of the same, and also of the appointment of such viewers; whereupon it shall be the duty of the county board thus notified to appoint two other viewers of like qualifications, and the four persons so appointed, with such county surveyor, shall meet at the time and place designated by such first board of county commissioners, and, having first been sworn according to law, shall proceed carefully to examine the condition of such highway, and, if practicable, shall locate the same upon the county line, one-half in each county. Such viewers shall make out a report of their proceedings, describing such highway by metes and bounds and showing its beginning, termination and width. One copy of such report shall be trans-

mitted to the board of commissioners of each county, and recorded as in case of other highways, and the proper township trustees shall each be furnished with a certified copy of the same. It is made the duty of such trustees to open and improve such highway as required by law. The said county surveyor is authorized to act with such four viewers in locating such highway; and whenever the board of commissioners of either county shall fail, refuse, or neglect to appoint viewers to act upon any petition filed according to the provisions of this section, the two viewers appointed by the other county, in connection with the county surveyor, shall proceed to discharge all the duties required of the four viewers, and their action in the premises shall have the same force and effect, and be equally binding, as the action of the four viewers.

Highways—State Line Roads—Superintendent.

SEC. 23. Whenever it may be desirable, after the passage of this act, to lay out, construct or improve, by straightening, grading, draining, paving, graveling or macadamizing, any highway or any part thereof, lying on, along or near to the state line between the State of Indiana, and any adjoining state, the boards of commissioners of the several counties of this state so adjoining another state shall have authority to join with the county commissioners or other proper authorities of the adjoining counties of such other state in the selection or appointment of a highway superintendent who shall serve for a period of two (2) years and until his successor shall be appointed and qualified. Such highway superintendent may be removed at any time by the boards of commissioners or other proper authorities of the several counties so adjoining, acting jointly, and such boards, or other proper authorities, shall also, at any joint session, have power to fill any vacancy for the unexpired term. Every such highway superintendent, before entering upon the discharge of his duties, shall take and subscribe an oath of office, and shall give bond, with surety, to be approved by such boards or other proper authorities, in a penal sum not less than two hundred dollars ($200), conditioned for the faithful discharge of his duties, and such bond shall be deposited with the county auditor of the county from which he is appointed. The boards of county commissioners or other proper authorities shall issue a certified copy of the order of appointment to such highway superintendent. Each highway superintendent shall receive for his services actually performed the sum of two dollars and fifty cents ($2.50) per day, for each day actually employed. Before receiving such pay he shall file a sworn statement with the board of county commissioners of the proper county of this state or with the county commissioners or other proper authority of the proper county of such adjoining or contiguous state, which statement shall specify the days and roads upon which such services were performed. Each highway superintendent shall at the time of his appointment be a qualified [illegible] the county of this state or of the

adjoining county of the contiguous state from which he is appointed. When an appointment of a highway superintendent is made, the county commissioners of the proper county or other proper authority shall make or cause to be made a certificate of such appointment and deliver the same within three (3) days after such appointment to the person so appointed. Such highway superintendent shall have charge and supervision of the construction, maintenance and improvement of any and all highways contemplated in this act, whether by straightening, grading, draining, paving, graveling, macadamizing or otherwise, and he shall be at all times under the direction and supervision of the respective boards of county commissioners or other proper authorities. Such boards of commissioners are hereby authorized jointly to enter into contracts with the proper authorities in such adjoining state, for the construction and improvement of such highways. Each county shall pay such proportion of the cost of such improvement as shall be determined by and between the said board of commissioners of this state and the proper authorities of such adjoining state to be equitable and just. Such improvement shall be made by the boards of commissioners on petition by the land owners, pursuant to the laws now or hereafter in force in this state, and this section is supplemental to all the provisions of this act for the construction and improvement of highways, so far as the same can be made applicable. Any highway so constructed or improved under this section, shall be free of toll and shall be perpetually kept in repair by the provisions of this act for the repair of highways; the said adjoining county or counties contributing proportionately in keeping the same in repair according to the proportions paid for the original cost thereof: *Provided, however,* That this act shall not become operative in this state until or unless it shall be adopted by any such adjoining or contiguous state desiring to avail itself of the provisions thereof. (As amended. Acts 1913, pp. 938, 939 and 940.)

Stream Declared Navigable—Petition.

SEC. 24. The boards of commissioners in the several counties in this state are authorized to declare any stream or water-course in their respective counties navigable, on the petition of twenty-four freeholders of the county, residing in the vicinity of the stream which it is intended to be declared navigable.

Examination of Stream.

SEC. 25. On the filing of the petition provided for in the last section, any such board shall cause an examination of the stream or water-course intended to be declared navigable to be made by some suitable person, who shall ascertain and report to the board the length of the same, and how much thereof is capable of being declared navigable, which report such board shall confirm if satis-

fied that the stream, if navigable, would be of public utility; and thereupon such board shall declare such stream navigable and cause the report to be recorded on the records of the board, as public highways are recorded.

Removal of Obstructions.

SEC. 26. The supervisor of the road district through which such stream or water-course, or any part thereof, may run, shall take charge thereof as a part of his general duties as supervisor of public highways; and for the purpose of keeping the same in a navigable condition he may annually call out for two days the inhabitants of such district, liable to work on the public highways, who shall work on such stream and clear out timber and other obstructions that may interfere with the navigation thereof.

Penalty for Obstructing.

SEC. 27. Any person obstructing any stream or water-course declared navigable shall be liable to the same pains and penalties as persons guilty of obstructing public highways; and the general laws governing public highways, and the laying out and working thereof in all other respects, shall, so far as applicable, govern in the defining and working of navigable water-courses.

Piers, Wharves, Etc.

SEC. 28. Any riparian owner of lands within this state bordering upon a navigable stream may build and maintain within his premises so bordering on such stream, and upon the submerged lands beneath the water thereof, piers, wharves, docks or harbors in aid of navigation and commerce, and may use, occupy and enjoy the same as appurtenant to his said lands: *Provided,* That such piers, docks and wharves shall not extend into such stream further than is necessary to accommodate shipping and navigation, and in no case so as to obstruct the same.

Not to Affect Mills, Etc.

SEC. 29. The declaration of water-courses as navigable by county boards shall not affect any mill, dam, aqueduct, viaduct, bridge or machinery on any such stream, except in cases where the same have been abandoned for a period of twelve months.

Fund to Remove Obstructions.

SEC. 30. The boards of commissioners of the several counties shall have power to use such sums as may be appropriated from the county treasury, and as they may deem necessary, to remove obstructions from streams that have been heretofore or may be hereafter declared navigable according to law.

Highways—Along Streams—Caving—Fencing.

SEC. 31. When any public highway running or passing along the bank of any water-course shall by the falling in or washing away of the bank of any such water-course, become unsafe or inconvenient for use as a public highway, or where now any public highway or any part thereof is in the bed of any water-course, otherwise than mere crossing such water-course, it shall be the duty of the supervisor having such highway in charge forthwith to give the owner or occupant of the land over which such highway passes, notice to remove his fence back from the bank of such water-course far enough to admit of the opening and construction of a road at least forty feet wide, and if said public highway is in the bed of such water-course the supervisor may open and construct the same, on the side of the water-course that in his judgment will make the best highway, and if the owner or occupant of such land should neglect to remove such fence, as required by such notice after receiving the same, it shall be the duty of such supervisor to call out the hands liable to work on highways in his road district, and forthwith to remove such fence, doing to the owner or occupant no greater damage than is necessary for the removal of the fence. If any dwelling or building should stand so near such water-course that a sufficient space is not left for such road, then such supervisor may open such highway in the rear of such dwelling house or other building. (As amended. Acts 1909, p. 72.)

Highways—Changes of Fence—Damages—Viewers.

SEC. 32. That before any such fence shall be removed or road changed to the rear of buildings, as provided in the preceding section, the road supervisor shall stake out the change as he desires to make it, and give to the owner or occupant or their agent, if their resident or postoffice address be known, written notice, at least fifteen days before he changes said highway, which notice shall state the change to be made in such highway and width thereof, and if said owner, occupant or agent shall within said fifteen days file in the office of the county auditor of such county a claim for damages occasioned by such change, then said change shall not be made until all damages, if any, assesssed by the viewers hereinafter provided for shall have been paid in full or allowed by the board of commissioners of such county. If said owner, occupant or agent fails to file his claim for damages within said fifteen days, then said road may be changed without the damages being first paid, but the owner, occupant or their agent may at any time within two years after such change is made, file his claim with the county auditor for damages for the removing of such fence or the change of such road and for the use of the ground over which said road shall pass; upon the filing of a claim for damages either before or after the road has been changed, it shall be the duty of such board of commissioners to appoint two reputable freeholders of such county to view such premises, and assess the damages of such claimant, by

reason of the appropriation of his said land for such highway and the removal of such fence. (As amended. Acts 1911, p. 150.)

Oath of Viewers—Report—Reviewers—Payments.

SEC. 33. The viewers appointed as provided for in the last section shall be sworn faithfully and impartially to perform their duty, and upon actual view of such premises, to assess such damages and report the same to such board of commissioners, and such board of commissioners may allow and order the same to be paid out of the county treasury of such county; or if the board deem such assessment to be too high it may appoint reviewers to make another assessment, who shall be sworn as above provided and shall proceed in like manner to assess such damages, and report the same to such board, and such board shall order the amount of the assessment to be paid out of the treasury of the county. If such claimant shall be aggrieved by such assessment, he may demand a review of such premises, and a new assessment of such damages whereupon such board shall appoint re-reviewers as aforesaid, who shall be sworn as above provided, and shall review such premises, and reassess such damages; but if such last named reassessment shall be for no greater sum than the first assessment, such claimant shall pay the cost of such last named review. The provisions of this act shall apply to all proceedings hereafter had under this act, and to all proceedings heretofore instituted under the provisions of the act of which this is amendatory, where such change of highway has not actually been made. (As amended. Acts 1911, p. 151.)

Gates at River Bank.

SEC. 34. Persons living on or owning property along any water-course that is navigable for boats of a large size, are hereby authorized to hang gates at or near the top of the bank, across any road leading down the bank and terminating at such water-course, save in the limits of towns and cities.

RAILROAD, INTERURBAN, STREET-CAR, TELEGRAPH AND TELEPHONE LINES.

Railroad, Etc.—Crossing Stream or Highway.

SEC. 35. Every steam or electric railroad company shall have the right to construct its railroad across any stream, water-course, road, highway, railroad or canal which the route of its road shall intersect, in such manner as not to interfere with the free use of the same and so as to afford security for life and property; but such railroad corporation shall restore and maintain the stream or water-course, road, highway or canal, thus intersected, to and in its former state, or in a sufficient manner not unnecessarily to impair its usefulness or injure its franchises. Whenever the track of such railroad shall cross a road or highway, such crossing may be at grade or such road or highway may be carried under or over the track, as may be most expedient; and, in cases where an embank-

ment or cutting shall make a change in the line of such road or highway desirable, with a view to a more easy ascent or descent, the said railroad corporation may take such additional lands for the construction of such road or highway, or such new lines as may be deemed requisite. Unless the lands so taken shall be purchased or voluntarily given for the purposes aforesaid, compensation therefor shall be ascertained in the manner provided by law, and duly made by such corporation to the owners and persons interested in such lands; and the same, when so taken and compensation made shall become part of such intersecting road or highway, in such manner and on such terms as the adjacent parts of such highway may be held for highway purposes.

Interurban—Extension on Highway.

SEC. 36. Any interurban or street railway company, organized under the laws of the State of Indiana and operating such railway within any of the towns or cities of the state, desiring to extend its road beyond such town or city limits on any public highway, or any other company organized under the laws of the State of Indiana for similar purposes, or any corporation desiring to build an interurban electric railway outside of any city or town on any public highway, may do so by procuring the consent of the board of commissioners of the county in which such highway is situated. If such highway is graveled or planked by a gravel or plank road company, such interurban or street railroad company shall also be required to procure the consent of such gravel or plank road company to run its road over such gravel or plank road. Such interurban or street railroad company shall, in all cases in which any road or highway shall be used by it for the purposes expressed in this section, locate its tracks on such part of such highway, keep its track and roadbed in such condition and perform such other reasonable terms and conditions as may be fixed in the order of the board of commissioners of the county made in granting such consent or at any time afterwards.

Railroad, Etc.—Real Estate Taxation.

SEC. 37. All officers engaged in the assessment of property for taxation are prohibited from assessing for taxation, against any adjacent property holder, the real estate occupied by any railroad, interurban or street railway, or by any public highway, and no part of the land so belonging to such property holder shall be assessed against him for taxation except the portion beyond the lines of the right of way of the railroad, interurban or street-car company or the right of way used and occupied as such public highway: *Provided,* That if the assessor and the land owner shall fail to agree on the amount of land contained in such railroad, interurban or street-car right of way, on such public highway, then such land owner, to receive the benefit of such exemption, shall determine the amount of land in dispute by actual survey and shall bear all expenses of the same.

Highways—Poles, Wires, Etc.

SEC. 38. That corporations now formed or which may hereafter be organized for the purpose of constructing, operating and maintaining telephone lines and telephone exchanges, or for the purpose of generating and distributing electricity for light, heat or power, are authorized to set and maintain their poles, posts, piers, abutments, wires and other appliances or fixtures upon, along, under and across any of the public roads, highways and waters of this state outside of cities and incorporated towns; and individuals owning telephone lines or lines for the transmission of electricity, are hereby given the same authority: *Provided,* That the same shall be erected and maintained in such manner as not to incommode the public in the use of such roads, highways and waters: *Provided, further,* That no trees shall be cut along such roads or highways without the consent of the abutting property owners: *Provided, also,* That no pole or appliance shall be so located as to interfere with the ingress or egress from any premises on said road, highway, or waters: *Provided, further,* That nothing herein contained shall be construed as depriving the county commissioners of any county of the power to require the relocation of any such pole, poles or appliances which may affect the proper uses of such highway for public travel, for drainage or for the concurrent use of other telephone lines or lines conducting electricity. That the location and setting of said poles shall be under the supervision of the board of commissioners of the county. (As amended. Acts 1911, p. 421.)

BRIDGE.

Bridge—Building or Repairing Bridge.

SEC. 39. Whenever in the opinion of the board of commissioners of any county the public convenience shall require that a bridge upon any highway shall be repaired or built, the board shall cause surveys and estimates therefor to be made and plans and specifications to be prepared and filed in the office of the county auditor, and shall direct such bridge to be erected or such repairs to be made. Anyone desiring to submit plans and specifications for competition at the same letting, may do so by filing the same with the county auditor not less than ten days before the date of letting. If any plans or specifications include the use of any patented device or of an article controlled by monopoly the specifications shall be accompanied by a statement of the terms upon which such device or article may be used or obtained. If, in the opinion of the board, the estimate therefor shall exceed the ability of the road district in which such bridge is to be built, or repairs to be made, by the application of its ordinary road work and tax, the commissioners may use any appropriation made from the county treasury to build or repair the same. (As amended. Acts 1907, p. 374.)

Funds.

SEC. 40. Such board of commissioners shall receive and appropriate all donations for the erection and repair of bridges, and shall make such regulations in reference to payments and kinds of bridges as to it shall seem proper.

Sealed Proposals—Contract—Bond.

SEC. 41. In case any board of commissioners determine that a bridge should be erected or repaired out of funds appropriated therefor from the county treasury, as provided in section thirty-nine of this act, such board shall direct the county auditor to advertise for sealed proposals to do the work according to the plans and specifications on file in his office. Such notice shall be given by publication for two weeks, once each week, in a newspaper of general circulation in the county, the last publication to be ten days before the day set for receiving bids. The commissioners may provide in such notice that each bidder, in guaranty of good faith and that he will enter into contract to do the work if his bid is accepted, shall deposit such money or give such bond as the board may deem proper, and may fix such other terms and conditions for the reception of bids as may be desirable. The board may let the contract to the lowest and best bidder, if his bid be reasonable, and may enter into written contract with him. But the board may reject all bids and re-advertise for other bids. Such contractor shall be required to give bond in an amount and with surety to be approved by the board, conditioned for the due performance of his contract.

Purchase of Bridge—Abandoned Bridge.

SEC. 42. The board of commissioners of any county may purchase any toll bridge, or buy any private interest therein, and order the same to be paid for out of any money appropriated therefor out of the county treasury; and whenever any bridge company has abandoned, or may abandon, any bridge, or when the right to take toll has expired, or may expire, it shall be lawful for the commissioners of the county in which such bridge may be situated to require the same, and the grades leading thereto, to be repaired; and for that purpose such board shall possess all the powers that are given by law to boards of commissioners for building and repairing bridges.

Repair of Bridges.

SEC. 43. The board of commissioners of every county shall cause all bridges therein to be kept in repair, and shall cause the place at each end of any bridge in his district, whose chord is not less than twenty-five feet, the following notice in large letters:

"One dollar fine for riding or driving on this bridge faster than a walk." And if any person shall ride or drive over any such bridge faster than a walk, or if he shall in any manner wilfully injure such bridge, he shall, for every such offense, forfeit and pay any such sum not less than one dollar nor more than treble the damages legally ascertained, to be recovered by the proper supervisor before any justice of the peace of the proper county, which sum so recovered shall be applied to the repairs of such bridges.

Within Corporate Limits.

SEC. 44. The board of commissioners of any county may build or repair any bridge within the corporate limits of any city or town in such county; and any such bridge, if built or repaired by order of such board, shall be built or repaired in the same manner and paid for out of the same funds that other bridges without such corporate limits are by law built or repaired and paid for. Nothing in this section, however, shall be so construed as to take away from any such city or town the right to build or repair any bridge within its corporate limits, nor to take away the jurisdiction of such city or town over all bridges within such limits, whether built or repaired by such city or town or by the county board.

Highways—Joint Bridge on County Line.

SEC. 45. Whenever public convenience shall require the erection, repair or purchase of any bridge across a stream forming the boundary line between two or more counties in this state (and in all cases where a stream crosses a public highway located on, and forming the boundary line between two or more counties in this state, and where such stream requires a bridge of more than twenty feet in length, across the same and forming a part of such public highway) the board of commissioners of either of such counties, upon application therefor, may by order entered of record, declare its willingness to aid in the erection, repair or purchase of such bridge, and shall cause notice of such order to be given to the board or boards of commissioners of such other county or counties interested therein. And whenever it may be ascertained that the board or boards of commissioners of such other county or counties interested therein and to whom such notice has been so issued, has made a like order as shown by the certificate of the auditor of such county, such boards shall in case of the erection, repair or purchase of such bridge, by concurrent resolution cause a survey and estimate to be made, submitting plans and specifications therewith, by some competent person, to be presented to such boards at a specified time and place when and where they shall meet in joint session at or near the site of such bridge, to estimate and determine the kind of bridge which shall be erected, or repairs made, and the manner and time of payments therefor; and they shall cause the plans and specifications that may be agreed upon at such meeting to be placed on file with the auditor of the county which first declared its willingness to aid in the erection or repair of such bridge

and a complete record shall be made by the auditor of such county of all the proceedings in relation to such bridge: *Provided*. That whenever a board of commissioners of any county shall have notified the board or boards of any other county or counties interested in the erection, repair or purchase of any bridge as specified in this section, and any such board of commissioners so notified shall fail or refuse for the period of thirty days to accept or act on the same by joining in the building, repair or purchase of such bridge, then the board or boards of commissioners passing such order, may, if in their opinion public convenience require it, build, repair or purchase such bridge under the same rules and regulations as are now or may hereafter be in force for the building, repair or purchase of bridges wholly within one county, after first having obtained in case of the erection of a bridge, the written consent of the landowner in the adjoining county whose land will be occupied by any part of such bridge. In case of the erection or repair of a bridge, it shall be the duty of such boards of county commissioners, while in joint session, to appoint one or more persons as superintendents, who shall have full control and supervision of the erection or repair of such bridge, subject, however, to such regulations as such boards of commissioners may determine upon; and such superintendent or superintendents shall each give bond in such sum as may be required by such boards of commissioners, and to be approved by them. It shall be the duty of such board, in joint session, to fix the amount of the appropriation which should be made by their respective counties in payment of the cost of construction, repair or purchase of such bridge; which apportionment to each county of the whole costs of construction, repair or purchase of such bridge shall be in proportion to the taxable property of such counties. In case of the refusal of any county, as aforesaid, to join in the construction, repair or purchase of such bridge, the county desiring such improvements may construct, repair or purchase such bridge as hereinbefore provided, and when the cost of such bridge or repairs does not exceed ten thousand dollars the county making such improvement by the erection, repair or purchase of such bridge shall be entitled to recover from each of such adjoining counties affected by such improvement the amount that such county should have paid had it joined in such improvement, such claim to be enforced as other claims are enforced against counties in this state; and when such claim is litigated the judgment shall include a reasonable attorney's fee for the plaintiff's attorney. All boards of commissioners, proceeding under this section to erect, repair or purchase joint bridges, in advertising for bids, letting contracts and requiring affidavits and bonds for bidders and contractors, shall be governed by the laws now in force or hereafter enacted, providing for advertising for bids, letting of contracts and requiring affidavits and bonds of bidders and contractors for erection of bridges wholly within and by one county. Each county shall be regarded as the owner of an interest in any bridge erected, repaired or purchased in pursuance of this section, and each shall have a voice in regulating the use thereof. (As amended. Acts 1913, p. 162.)

Gravel Roads—Construction and Assessment—Proceedings.

SEC. 46. The board of commissioners of every county in this state shall have the power, as hereinafter provided, to lay out, construct or improve by straightening, grading, paving, draining, graveling or macadamizing any public highway, or any part thereof, within such county, upon the presentation to the board of commissioners of any county of a petition stating the kind of improvement prayed for and the points between which the same is asked, signed by a majority of the resident land owners of the county whose lands lie within one mile of the proposed improvement, and will be benefited thereby, and such majority shall represent a majority of the acres owned by said residents. Such board, if it shall be satisfied that due notice of application has been given by publication three (3) weeks successively in a newspaper of general circulation published in the county, the last of which publication shall have been at least ten (10) days before the meeting of the board at which such petition is to be presented, or by posting up notices in three of the most public places in the neighborhood of such highway at least ten (10) days before such meeting of the board, shall appoint three (3) disinterested freeholders of the county as viewers, and a competent surveyor, or engineer, to proceed, upon a day to be named by the commissioners, or any other day to which a majority may adjourn prior to the next session of such board, to examine, view, lay out or straighten such highway as in their judgment public utility or convenience may require; and the county auditor of the county shall notify said viewers and surveyor of the time and place of their meeting, and they shall meet accordingly, and after taking an oath or affirmation faithfully and impartially to discharge the duties of their appointment, respectively, shall determine what lands will be benefited or damaged by the proposed improvement, and shall take to their assistance two suitable persons as chain carriers, and one marker; and if the said viewers find that such improvement will be of public utility or convenience, and that the costs and expenses thereof and damages caused thereby will be less than the benefits to the lands within two miles of the improvements, excepting such lands and lots as lie within the limits of any incorporated town or city, they shall, upon actual view of all the lands within two miles of the improvement, excepting such as lie within such incorporated town or city, apportion the estimated costs, expenses and damages upon all the said lands within said two miles that will be benefited, according to the benefits to be derived therefrom. They shall assess the damages, if any, sustained by any person or persons through whose lands such road is proposed to be laid out, straightened or improved. In determining said majority, minor heirs shall not be counted for or against such improvement unless represented by a legal guardian, and the action of such guardian shall be binding upon such minors. (As amended. Acts 1907, p. 561.)

Viewers and Surveyor—Report—Notice.

SEC. 47. The viewers and surveyor, as soon as they have performed the duties prescribed by the preceding section, shall make a report to the board of commissioners, and file the same with the auditor of the county, which report shall show the public utility of the proposed improvement, an estimate of the costs and expenses thereof, including reasonable attorney's fees for the petitioners, the damages, if any, assessed to the several tracts of lands, the benefits to each forty acre tract of land or less, where such exists, and give a description of the work proposed, the grade, drains, culverts, kind of improvement, the commencement, width and terminus of the road: *Provided,* That no lands shall be assessed for benefits that do not lie within two miles of the contemplated work or improvement, nor lands within incorporated towns or cities. As soon as such report is filed with the auditor, it shall be his duty to give notice of the filing thereof by publication for two successive weeks, once each week, in some newspaper published in the county where the improvement is to be made, and state therein the points between which such improvement is to be made, and the time set for the hearing of such report, the last of which publications shall be not less than ten days before the time set for such hearing.

Hearing of Report—Order.

SEC. 48. At the time fixed for the hearing of the report, the board of commissioners shall proceed to hear the same, and if it is found that notice has been given, as required by the preceding section, that the proposed work is of public utility and that benefits assessed exceed the expenses and damages, such board shall enter upon its records an order that the improvement be made, which order shall state the kind of improvement and the width and extent of the same.

Amendment to Petition.

SEC. 49. The board of commissioners shall have power to permit amendments to be made to the petition or report, and to extend the time to the viewers to make their report, and to continue the hearing from time to time, so as to subserve the ends of justice.

Remonstrance—Causes.

SEC. 50. On or before the day fixed for the hearing of such report the owners of any lands affected by the work proposed may remonstrate against the report, which remonstrance shall be sworn to, and may be for any or all of the following causes:

First. That the report of the viewers is not according to law, stating specifically the illegality claimed;

Second. That the lands of the party filing the remonstrance are not benefited, or are assessed too much as compared with other lands assessed as benefited, specifying such lands;

Third. That the lands of the party filing the remonstrance are damaged, and that the damages assessed are inadequate;

Fourth. That it is not practicable to accomplish the proposed work without an expense exceeding the aggregate benefits;

Fifth. That the proposed work will not be of public utility.

If more than one party remonstrate, the remonstrances shall be consolidated and tried together, and the report of the viewers shall be prima facie evidence of the facts therein stated. The board of commissioners shall try the issues thus formed, and if such board find for the remonstrants upon the fourth or fifth cause of remonstrance, the petition and report shall be dismissed at the cost of the petitioners: *Provided,* That if donations shall be made or secured to the satisfaction of the board, sufficient, with the assessments, to equal the expenses of the work and damages allowed, the petition and report shall not be dismissed for the fourth cause of remonstrance, and such donations are hereby authorized to be made. If the board find for the remonstrants upon the first cause of remonstrance, the report shall be referred back to the viewers for correction, or for a new report, to which new or amended report remonstrances may be filed as before; and if the report shall finally be made according to law the board shall find against the remonstrants for the first cause of remonstrance. If the board find for the remonstrants upon the second or third cause of remonstrance, such board shall modify the assessments and equalize the same and assess the damage as justice may require, and thus modified and equalized the assessments shall stand and be adjudged valid. The only questions that shall be raised shall be those raised by the remonstrance. If the assessment upon the lands of any remonstrant is not reduced twenty per cent. or the damages claimed by any remonstrant are not increased twenty per cent., such remonstrant shall pay all costs occasioned by such remonstrance; but if such assessment be reduced more than twenty per cent., or the damages be increased more than twenty per cent., then the remonstrant shall recover costs and the board shall apportion such costs pro rata upon the lands assessed for benefits. Such assessments when confirmed by the board of commissioners, or higher court on appeal, shall constitute first and paramount liens on the real estate respectively assessed, as taxes are liens, which liens shall relate back and bind the real estate so assessed from the time of the filing of the report. The auditor shall at once enter such assessments upon the tax duplicate, to be collected by the county treasurer as state and county taxes are collected, with interest at six per cent. per annum, [in] installments as hereinafter provided, and the moneys collected shall be used exclusively in payment of the bonds, costs and expenses of such work, as hereinafter provided.

Superintendent of Construction.

SEC. 51. After the improvement has been ordered and the assessments confirmed, as provided in the last section, the board of commissioners shall appoint a competent person to superintend the construction of the work, who, before entering upon the duties of such trust, shall take an oath or affirmation honestly, faithfully and impartially to discharge the duties of such trust, and shall execute a bond, payable to the State of Indiana, for the use of the parties interested therein, in double the amount of the assessments, with surety conditioned for the faithful performance of the duties assigned him, which bond shall be approved by the board of commissioners. Suit may be brought on such bond by any person or corporation aggrieved, and any judgment rendered thereon in favor of any person or corporation shall be without relief from valuation or appraisement laws and with attorney's fees.

Superintendent's Duties.

SEC. 52. It shall be the duty of the superintendent charged with the execution of the work provided for in the preceding six sections to proceed to have the same constructed as ordered. He shall let the contract for such construction as a whole or in parcels, as he may deem best. He shall give notice of the time and place the contract or contracts will be let, by publication once each week for two successive weeks in one or more papers published in the county, which notice shall state the time within which the work is to be completed, and the parcel or parcels to be let. Sealed proposals shall be received, and the work let to the lowest responsible bidder or bidders. A bond with surety executed by the bidder to the State of Indiana, in the amount of the bid, shall accompany each bid. Such bond shall be executed by freehold sureties, at least one of whom shall be a resident of such county; or the bond may be secured by a surety company to the approval of the board. Suit may be brought on such bond on the relation of the superintendent or that of any person having an interest therein, for any and all breaches thereof, and any judgment rendered thereon shall be without relief from valuation or appraisement laws, and include reasonable attorney's fees. If any person or persons contracting to construct the work, or any part thereof, shall fail to perform the same according to the contract, the superintendent shall have the right to relet the same, on notice and after receiving bids as on the first letting, and deduct from the contract price of the original contract whatever sum the last contract is in excess of the original contract, and shall also deduct the expense of the reletting; and the superintendent shall have the right to continue the reletting as above until the work is fully completed.

Assessments—Payment—Issuance of Bonds.

SEC. 53. As soon as the contract or contracts are let for the construction of the work as provided in the preceding section, the

superintendent shall assess upon all the lands benefited, ratably upon the amount of benefits as confirmed and adjudged by the board of commissioners, or court on appeal, such sum as may be necessary to pay for the work and all costs and expenses accrued or to accrue, not exceeding the whole benefits adjudged upon any one tract. He shall immediately thereafter make out a notice stating that the work has been established by the board of commissioners, setting out also the several assessments to the several tracts of land, as confirmed by the board, or court on appeal, and cause such notice to be recorded in the office of the recorder of the county. Whenever any assessment shall have been satisfied, it shall be the duty of the superintendent to enter satisfaction of the lien thereof in such record; and in case bonds are issued, as hereinafter provided, it shall be his duty to enter on the margin of such record the words "bonds issued," which entry shall have the effect to transfer the record of the lien of any such assessment to the gravel road duplicate in office of the county treasurer. Should such superintendent fail to enter such satisfaction, the board, by order duly entered, shall direct the auditor to make such entry of satisfaction in the recorder's office. Such superintendent shall be liable on his bond to any person interested for such failure of duty. The superintendent of construction, out of the funds collected from the assessment so made and confirmed, shall pay all costs of the gravel road improvement not otherwise adjudged, and all expenses incident to the construction of the work, including the reasonable attorney's fees of the petitioner or petitioners in the preparation and presentation of the petition, the establishment of the work and other services rendered in such work, and also such other costs and expenses as the board shall allow; but no claim for costs or expenses, except payments on the contract for constructing the work, shall be paid until such claim is allowed by the board. All costs not taxable to the petitioner or petitioners, remonstrants or appellants, shall, in the first instance, be paid out of the county treasury, and shall be refunded to the county by the superintendent of construction out of the first moneys collected by him; next in order he shall pay all awards of damages; and thereafter he shall pay to the contractor such sums as shall from time to time become due under the terms of the contract, reserving, however, twenty per cent. thereof, which shall be due and payable only on completion and approval of the whole work. For the purpose of raising funds for making such payments, the superintendent shall collect of the assessments of benefits adjudged by the board, such sums as may be necessary therefor, not exceeding the whole amount of benefits assessed against any tract, and require the same to be paid to him in installments not exceeding ten per cent. per month, at such times and places as he shall fix, after thirty days' notice thereof given by one publication in a newspaper of general circulation published in the county. If any such assessment is not paid in the amount and at the time by him required, the superintendent shall make his certificate showing the

amount of the assessment against any tract, and the default in its payment as required, and shall file the same with the auditor of the county; thereupon the auditor shall place such amount, together with ten per cent. penalty for the default, upon the tax duplicate, to be collected as state and county taxes are collected, at the next ensuing date for semi-annual payment of taxes. If such assessment and penalty are not then paid, an additional penalty of five per cent. shall be added, and the land shall be sold for such assessment and penalty with interest thereon at six per cent. from the date of last default to the date of sale, as lands are sold for the non-payment of delinquent taxes; and the redemption from such sale may be had in the same manner, during the same time and on the same terms as provided by law for the redemption of lands sold for delinquent taxes. Gravel road bonds may be issued to procure funds for the payment of the cost, damages and expenses of the construction of such work, and of the proceedings had therein, provided the owners of lands assessed for benefits shall, within thirty days from the establishment of the work and approval of the assessments of benefits and damages, file their written requests therefor with the superintendent of construction. In such written request any such land owner shall agree that in consideration of the right to pay his assessment in ten yearly installments he will not make any objection to any illegality or irregularity, if any, in the proceedings up to and including the letting of the contract and the issuing of such bonds and that he will pay such assessments with interest as the same become due. The filing of such requests and the issue of bonds, if any there should be, shall in no manner affect the collection of assessments from land owners and others assessed for benefits who have not filed requests for the issue of bonds, and as to them the collection of the assessments as hereinbefore provided for shall be made as if no bonds were issued; and bonds shall be issued to cover only so much of the cost, damages and expenses of the work and of the proceedings had therein as is apportioned to the lands of those who have filed requests therefor, and shall be liens only on such lands and payable only out of the assessments made thereon. Such apportionment shall be made as follows: The superintendent of construction shall carefully ascertain the total original cost of the work, including all damages awarded to the owners of lands and all incidental expenses, and shall apportion such total cost, damages and expenses to the several tracts of land and parties assessed for benefits, in proportion to the assessments for benefits, not in any case exceeding such benefits. Thereupon the superintendent shall report all such facts to the board of commissioners, together with all such requests for bonds and waivers of irregularities by land owners, which report and waivers the board shall examine, and, if found correct, shall approve; whereupon such report and requests and waivers, with such approval, shall be entered in full in the order book of the board. The board of commissioners, after the entry of such order, shall direct the county auditor to prepare an assessment

sheet, or gravel road duplicate, showing the total cost apportioned to all the parcels of land for which the owners of lands request the issue of bonds, with proper columns for the payment of installments and interest. And such auditor shall assess ratably from year to year upon such lands a sum sufficient to pay such bonds and interest as they severally mature. The first of such assessments shall be due and payable at the semi-annual payment of taxes next following the letting of the contract, and the remaining assessments on the same day each year thereafter for nine successive years, with interest at six per cent. per annum, payable semi-annually, on all unpaid assessments. Such assessments and interest shall be collected by the county treasurer as state and county taxes are collected, and shall be subject to the same penalties in case of non-payment when due; and all laws for the collection of delinquent taxes, and for the sale of lands for taxes and redemption from such sales, shall apply equally to the collection of such assessments. Any land owner desiring to relieve his land of the lien of such cost of gravel road improvement may, at any time, pay the whole amount of the unpaid installments, with all interest due thereon. The treasurer shall receipt for any payment on such installments, and mark such payment on the duplicate, as in the case of payment of taxes; and any such payment shall be a release of the lien of such cost, and of the assessment for such work, to the extent of such payment. As soon as such duplicate is so prepared, the board of commissioners shall issue the bonds of the county to the amount of the cost so placed on the duplicate for collection. The bonds shall be numbered consecutively, and shall be in denomination of one hundred dollars or any multiple thereof, except that one bond may be for less than one hundred dollars. One-tenth of such bonds, as near as may be, shall fall due and be payable on the first day of June or December, as the case may be, following the next succeeding semi-annual payment of taxes; and one-tenth of such bonds, as near as may be, shall fall due and be payable on the same day every year thereafter, for nine successive years. All such bonds shall bear interest from the date of letting the contract for such work until the bonds are paid, respectively, at six per cent. per annum, payable semi-annually, on the first day of June and first day of December, each year. They shall show on their face for what purpose issued; and shall be payable out of collections made on such assessments, and not otherwise. Upon the signing of such bonds by the board of commissioners and the attestation thereof by the county auditor, they shall be turned over to the county treasurer, who shall receipt to the auditor therefor. Thereupon the treasurer shall give notice, by publication once in a newspaper of general circulation published in the county, and by posting a copy of such [notice] at the door of the court house, that, at the office of such treasurer, on and after the hour of ten o'clock a. m., on a day to be named, not less than twenty days thereafter, the treasurer will proceed to sell such bonds, at not less than the principal sum named in such bonds, to the highest and best bidder

for cash: *Provided, however,* That in lieu of selling such bonds, as herein provided, the board of commissioners, by order of record to that effect, may direct that the bonds shall be exchanged at par and held by the county treasurer for any unloaned school funds or other unused funds held in the county treasury; in which case the assessments and interest collected for the payment of such bonds shall be paid into and credited to the fund so used in their purchase. The proceeds of such bonds shall be drawn out of the county treasury only on the warrant of the auditor, upon the certificate of the superintendent, in payment of the cost of construction of such work and the expenses incident thereto. In case the bonds sell at a premium, the aggregate amount of such premium shall be apportioned pro rata to the several assessments of cost against the respective parcels of land; and the amount thus apportioned to each parcel shall operate as a payment, to that extent, of the first maturing installment.

Acceptance—Final Reports—Surplus Funds.

SEC. 54. When the work of graveling, macadamizing or otherwise improving such highway, as hereinbefore provided, is completed, and the superintendent shall certify the same to the auditor of the county, the board of commissioners shall receive the improvement and provide for the keeping of such road in repair, as hereinafter required. It shall be the duty of the said superintendent, within sixty days after certifying the completion of the improvement, to file his report with the auditor, showing the receipts and disbursements, accompanied with vouchers for all disbursements, which report shall be submitted by the auditor to the board of commissioners at their next ensuing term, for approval or rejection. As soon as such report shall have been approved by the board of commissioners, the superintendent shall, within ninety days thereafter, distribute the surplus funds, if any, remaining in his hands to the persons from whom the same were collected, according to the several assessments, and take vouchers therefor; and as soon as he has completed such distribution he shall file his report thereof, accompanied by such vouchers, with the board of commissioners, for approval or rejection, and when the same has been approved, he shall be discharged by order of the board. If for any reason any surplus funds remain in the hands of the said superintendent after having made distribution the same shall be ordered paid into the gravel road repair fund, to be used only in the repair of the road for the construction of which the funds were collected. Whenever the owner of any tract of land assessed for the construction of any such road shall have paid off such assessments, it shall be the duty of the auditor to release and satisfy such assessment lien by writing the appropriate words of such payment and satisfaction upon the record where such assessment appears, and sign his official signature to such release, with the date thereof.

Contractor—Purchase of Materials.

SEC. 55. Any contractor for the construction of such work, or any part thereof, as provided for in the preceding nine sections of this act, shall have the power to contract for and purchase any materials that may be necessary for the construction of such road; and if such contractor cannot agree with the owner of such materials, as to the price thereof, he may apply to the circuit court of the county, or the judge thereof in vacation, to appoint appraisers to condemn and assess the value of such materials as provided by law for the condemnation of real estate under the power of eminent domain. The appraisers shall also assess the damages that may accrue to the owner of such materials by the removing of the same through his premises, and shall immediately return their award to such circuit court, or the judge thereof in vacation; and such court or judge shall, upon the return of such award, on application of such contractor, furnish him with a copy of such award. Thereupon such contractor shall enter upon the lands, either enclosed or unenclosed, and remove such materials as may be required to make a good road. An appeal from such award by the owner shall not prevent the immediate entry upon the premises by the contractor for the purpose of taking such materials. If the contractor appeal and the award be not reduced ten per cent. thereof, he shall pay all costs occasioned by the appeal; and if the owner of the materials appeal and do not receive ten per cent. more than the award, such owner shall pay all the costs occasioned by the appeal.

Remonstrance Appeal—Question for Trial—Costs, Etc.

SEC. 56. Any person who appeared and filed a remonstrance before the board of commissioners as provided for in section fifty of this act, shall be allowed an appeal to the circuit court, in like manner as other appeals are now allowed; and on such appeal the only question that shall be tried in the circuit court shall be the question raised before the board of commissioners by the first, second or third causes of remonstrance, which questions shall be tried by the court without a jury. On such trial the report of the viewers shall be prima facie evidence of the facts therein contained. If more than one party appeal all such appeals shall be consolidated and tried together, and the rights of each appellant separately determined. If the court find for any appellant upon the first cause of remonstrance the report shall be referred back to the viewers for correction, or for a new report; and if the report as so amended is found to be correct it shall be approved by the court. If the court find for any appellant upon the second or third cause for remonstrance it may modify and equalize the assessments as justice may require, by diminishing or increasing any assessments or benefits, or by giving or withholding, increasing or diminishing, damages. For the purpose of so ruling upon such causes of remonstrance, and so modifying the assessments, all persons or cor-

porations who are reported as affected, or whose lands are reported as affected, or who are named in the petition as affected, or who have appeared to the petition, shall be deemed to be in court for all purposes, by reason of such appearance or by virtue of the notices theretofore given them; and as thus modified and equalized the assessments shall stand and be adjudged valid. Such judgment of the court shall be final, and no appeal be allowed therefrom. If the assessment upon the lands of any appellant is not reduced twenty per cent. or the damages awarded by the board of commissioners are not increased twenty per cent., such appellant shall pay all the costs occasioned by such appeal, but if such assessment be reduced more than twenty per cent., or if the damages be increased more than twenty per cent., then the appellant shall recover costs, and the court shall apportion such costs pro rata upon the lands assessed for benefits: *Provided,* That the decision of the board of commissioners as to the fourth and fifth causes for remonstrance shall be final and no appeal shall be allowed therefrom: *And provided, further,* That if any appeal is taken from the board of commissioners to the circuit court, the bonds hereinbefore provided for shall not issue until after the final judgment of the circuit court on such appeal.

Error in Proceedings.

SEC. 57. No person shall be permitted to take advantage of any error committed in any proceedings to lay out, construct or improve any highway under and by virtue of this act, nor of any error committed by the board of commissioners, or by the county auditor, or by the engineer, surveyor, superintendent or other person or persons in the proceedings to lay out, construct or improve any such road, nor for any informality, error, or defect apparent in the record of such proceedings, unless the party complaining is affected thereby.

Taxation in Cities or Towns.

SEC. 58. When any highway to be improved under and by virture of sections forty-six to fifty-seven, inclusive, of this act, begins or terminates in any city or town, the corporate authorities of such city or town may, on agreement with the board of commissioners, levy a tax for the payment of an amount not exceeding one-fifth of the entire cost of such improvement, in addition to any amount that may be assessed upon the real estate in such city or town by virtue of the provisions of said sections: *Provided,* That the entire tax to be imposed for road purposes by virtue of this section shall not in any one year exceed fifty cents on the one hundred dollars of taxable values of such city or town.

Into Adjoining County.

SEC. 59. When it may be desirable to continue any highway improvement contemplated under the provisions of the preceding

sections from forty-six to fifty-eight, inclusive, into or through an adjoining county, the same proceedings shall be had in such county as to petitions, bonds, viewers, appraisements and all other formalities as are prescribed in said sections for the commencement of such improvement in the first county, and all such proceedings shall be had before the board of commissioners of the county in which such proposed extension is located.

Highways—One Mile or Less—Maintenance.

SEC. 59½. Whenever there shall be constructed in any county of this state any public gravel road or turnpike not less than one-half (½) mile in length, except where the entire length of the road is less than one-half (½) mile, and connecting with any free gravel road or terminating at any town or city, the same having a substantially graded roadbed not less than twenty (20) feet wide, with suitable side drains, culverts and bridges, and with grades not exceeding the maximum of free gravel or turnpike roads of such county, and having placed thereon not less than one (1) yard of suitable gravel or broken stone for every three (3) feet in length in such manner as to make a suitable road for public travel, then on the written request to the board of commissioners for such county, of not less than three (3) freeholders residing in the road district wherein such road is situated, said board of commissioners shall make inspection thereof, and for such purpose may employ a competent engineer to assist them. If upon such examination such road in their opinion is of public utility, and shall conform to the requirements herein, they shall cause an entry to be made on their records of such facts, and also enter thereon a description of the commencement and terminus thereof, and general description of the route of the same, and thereafter such road shall be deemed a part of the free gravel or turnpike roads of such county, and maintained as by law provided. (As amended. Acts 1913, p. 161.)

On County Line—Proceedings.

SEC. 60. When it is desirable to make any gravel or other highway improvement upon the boundary line between two counties, such as the improvements contemplated in the preceding fourteen sections, the petition therefor may be filed before the board of commissioners of either county, and such board shall direct the county auditor to transmit to the board of commissioners of the other interested county a copy of such petition and a notice of the time and place when and where both boards shall meet to act upon the petition. Such meeting shall be held not less than twenty days nor more than thirty days from the date of the giving of such notice and transmitting of such copy of such petition. The two boards shall act together in all matters relating to such improvement. The same proceedings shall be had as near as may be, as to the petition, viewers, assessments, superintendent, bonds and all other matters as are prescribed in said foregoing sections

of this act in relation to gravel road and other like improvements aforesaid when made in one county. Should the board of commissioners of such second county refuse or neglect to meet and act with the board of the first county, then said first board, before which the petition was filed, may proceed to make the improvement on such boundary line, as if the highway were wholly in the first county, and shall have power to make all assessments on lands within two miles on each side of such line; and such first county shall have a claim upon such second county for one-half of all necessary expenses paid out of the treasury of the first county in relation to such work, which claim may be collected from the second county as any other claim due from one county to another. Whenever a petition for any such improvement of a highway on the boundary between this state and any other state is filed before the board of commissioners of any county adjoining such other state, such board of commissioners and the other proper officers of such county shall have authority to unite with the proper officers of any adjoining county in such other state in the doing of such work, in accordance, so far as may be, with the proceedings herein authorized when the highway is on the boundary line between two counties: *Provided,* That the adjoining county or counties in such other state shall pay one-half of all expenses and assessments for the construction of such improvement and shall thereafter keep one-half of such highway in repair. The commissioners and other proper officers in such adjoining county in this state are given full power to enter into any equitable contract with the proper authorities in such adjoining county or counties in such other state to do such work and keep up such repairs in accordance with the laws of this state for making and keeping up such improvements in any county of this state, so far as the same can be made applicable.

Free of Toll—Township Road Funds.

SEC. 61. All highways improved under the provisions of sections forty-six to sixty, inclusive, of this act shall be free of toll. Nothing in said sections shall be so understood as to prevent township trustees from grading, graveling, macadamizing or otherwise improving the highways in their several townships and paying for the same out of the road funds of such townships.

Highways—Township Construction by Taxation—Bonds Legalized.

SEC. 62. The boards of commissioners of the several counties of the State of Indiana are hereby authorized and empowered to lay out, establish and cause to be graded, drained and paved with stone, gravel or other road paving material any new highway or part of a highway in any township or townships in said state or on the line dividing any two or more townships in any county in this state, and to cause to be straightened, graded, drained and improved in like manner any public highway or part of a highway already established in any such township or townships, or on the

line dividing any two or more such townships, in the manner and upon the conditions hereinafter prescribed: *Provided,* That where any such improvements are hereafter made of any highways or parts of highways extending into or through two or more townships, or on the line dividing any two or more townships, the board of commissioners shall fix, in the order finally establishing and ordering such improvements made, the ratio, proportion, or part that each of such townships affected, and to be assessed, shall pay and be assessable with, of the costs of such improvements, by fixing and assessing against each such township that part of the costs according to the amount estimated for the improvement to be made in each such township, so that each township shall pay for the improvement therein made in such proportion as such board shall so fix in its order: *Provided, however,* That such improvements and all steps taken therein, shall be taken and such improvements made under and in pursuance to the several sections of the above entitled act, and the several amendments heretofore made thereto; and that when such improvements shall be asked to be made on any township line or to run into or through two or more townships, the petition filed shall be signed by not less than twenty legal petitioners from each township sought to be affected: *Provided, further,* That in all cases in said state where petitions have been filed for the improvement of any highway or part of highway or highways running into or through two or more townships or on a township line, and proceedings have been had as required for making such improvements in a township in said state, and an order has been made authorizing and establishing such improvements in two or more townships or on a township line, under the provisions of the above entitled act, and in such order such board has fixed the proportion to be paid by each of such townships, in proportion to the amount of improvements to be made in the several townships as found and fixed by such boards, and contracts have been let for the making of such improvements, that any and all bonds issued and hereafter issued, to be sold for the purpose of providing money for the construction of any such improvements are hereby legalized; and any and all bonds heretofore sold under such proceedings and the purchase price received and retained or used in making the improvements for which such bonds were sold, are hereby legalized, and all proceedings or acts of any such boards or other officers under which such bonds were issued and sold are hereby fully legalized and declared valid; and the several boards of commissioners of this state are hereby empowered to issue and sell bonds in such cases aforesaid, and the county treasurer is hereby authorized to sell any and all such bonds issued and to be issued as he is authorized to sell other bonds for improvements under the said act of 1905 and amendments thereto: *and Provided, further,* That this amendment shall not affect pending litigation (As amended. Acts 1913, p. 914.)

NOTE.—This act was passed with an emergency clause, and was approved March 15, 1913, at which time it went into effect.

Highways—Method of Rebuilding.

SEC. 62. The boards of commissioners of the several counties of the State of Indiana are hereby authorized and empowered to lay out, establish, rebuild and cause to be graded, drained and paved with stone, gravel, brick, bituminous, macadam, or other road material any new highway or part of a highway in any township in said state, or on the line dividing any two or more townships in any county in this state, or to cause to be graded, drained and improved in like manner any public highway already established in any such township or on the line dividing any two or more of such townships, in the manner and upon the conditions hereinafter prescribed: *Provided,* That the rebuilding of free gravel or macadam highways shall be done in the same manner as the building or improvement of highways. (As amended. Acts 1913, p. 690.)

NOTE.—The act amending this section had no emergency clause, and was approved March 14, 1913, and this section, if valid, would take effect upon the proclamation of the Governor, and as Section 62 of the Act of 1905 had ceased to be in force and was superseded by the act of 1913 approved March 15, 1913, this section is null and void.

Highways—Petition—Notice.

SEC. 63. Wherever a petition signed by fifty or more freeholders and voters of any township in any county in this state, praying that any public highway or highways within such township shall be laid out, established and improved by grading, draining and paving with stone, gravel or other road paving material, or that any public highway or highways already established shall be graded, drained and paved with stone, gravel or other road paving material, or by fifty or more freeholders and voters of two or more townships in such county praying that a public highway shall be laid out, graded, drained and paved on a line dividing such townships, or that a highway on such line shall be graded, drained and paved, shall be addressed to the board of commissioners of the county in which said township or townships are located, and filed in the office of the auditor of such county, it shall be the duty of such auditor to cause to be published in a weekly newspaper of general circulation, printed and published in said county, and to be posted in not less than three public places within each of the townships named in such petition, and at the door of the court house of such county, a notice setting forth a copy of such petition, and the day upon which the same will be presented to such board of commissioners: *Provided,* That in any township in this state in which there are not to exceed one hundred freehold voters, then upon the petition of a majority of the freehold voters of any such township to the board of county commissioners for the improvement of any road or roads, as required by fifty freehold voters, as in this act provided, then this act shall apply in all such cases and the board of county com-

missioners shall proceed under such petition and carry out the provisions of this act the same as if upon the petition of fifty freehold voters, as in this act provided. (As amended. Acts of 1913, p. 418.)

Contents of Petition.

SEC. 64. The petition herein contemplated shall set forth the beginning, course and termination of each new highway or part of highway sought to be laid out, established, graded, drained and paved, and the beginning and termination and a general description of each public highway sought to be graded, drained and paved, together with a recommendation of the width of each such highway and of the character of the improvement to be made, and such petition may include one or more of such highways at the option of the petitioners.

Presentation to Commissioners.

SEC. 65. Upon the filing of such petition the auditor shall designate by endorsement thereon the day in a regular session of such board of commissioners, not more than thirty days thereafter, upon which the same shall be presented to such board, and the notice herein prescribed shall be signed by such auditor and published for two consecutive weeks in such newspaper, and posted not less than fifteen days, before the day so designated by the auditor.

Hearing on Petition—Proof—Engineer—Viewers.

SEC. 66. On the day so designated, by such auditor, the petitioners may make proof of the publication and posting of such notices and present such petition to such board of commissioners, and any taxpayer of any township named in such petition, or any person or corporation whose lands or property will be affected by the work therein prayed for, may file in writing his objections to the form or sufficiency of such petition, and in the event that such board shall deem such petition to be deficient in form or insufficient in substance, the petitioners shall be permitted to amend the same, but if such petition be not amended in such manner as to be in due form and sufficient, it shall be dismissed at the cost of the petitioners. If on the other hand such petition shall be adjudged by the board to be in due form and sufficient, either in the first instance or after the same has been amended, such board of commissioners shall make an order causing such petition to be spread of record and referring the matter therein prayed for to a competent civil engineer to be appointed by such board and two viewers, each of whom shall be a responsible freeholder and voter of such county, and not a resident of, nor the owner of taxable property in any township named in such petition.

Engineers and Viewers—Oath—Bond.

SEC. 67. Such engineer and viewers shall meet at a time and place to be designated by such board of commissioners, within ten days after their appointment, and shall each take and subscribe an oath faithfully and impartially to discharge his duties, and such engineer shall execute, and file with such auditor, his bond, with good and sufficient sureties to the approval of such auditor, payable to the State of Indiana, in a penal sum of five thousand dollars, conditioned for the faithful discharge of his duties as such engineer, which bond may be put in suit by any person or corporation whose property shall be injured or damaged by any wrongful act or negligence of such engineer.

Duties of Engineer and Viewers—Report—Profile.

SEC. 68. When such engineer and viewers shall have taken the oath, and such surveyor has executed the bond, herein prescribed, they shall proceed, without delay, to view and make all needful surveys of the road or roads mentioned in the petition, and shall determine

(a) Whether any proposed new highway or part of highway described in the petition will be of public utility;

(b) In respect to each separate highway or part of highway named in the petition, whether it will be of public utility to grade, drain and pave the same as therein prayed;

(c) The width of each highway or part of highway to be established or improved;

(d) The character of the improvement, including the grading, draining and paving, to be made of each highway mentioned in the petition, which they shall find to be of public utility, together with complete plans and specifications of each such improvement and of all bridges, culverts and waterways required therein;

(e) The estimated cost of each improvement to be made.

And on a day to be designated by such board of commissioners, in the order appointing them, said engineer and viewers, unless the time therefor shall have been extended by an order of said board, shall file in the office of said auditor their report in writing, signed by each of them, setting forth their determination in said matter in respect to each highway or proposed highway mentioned in the petition, including an accurate description of each new highway to be laid out, established, graded, drained and paved, and of each public highway to be graded, drained and paved, together with their recommendations in respect to the paving materials to be used in each instance and complete plans and specifications for each improvement to be made, and the estimated cost of each such improvement, and such report shall be accompanied by an accurate profile of each highway or part of highway to be improved, showing by proper lines and figures the elevation thereof at each one hundred feet of its length and the changes to be made therein by excavation or filling, which profile shall be made by the engineer.

Assessment of Damages—Claims.

SEC. 69. The report and profile of the engineer and viewers shall remain in the office of such auditor, open to the inspection of every person interested therein and of his agents and attorneys for at least ten days, and during such time said viewers shall assess such damages as shall be justly due to any infant, idiot or person of unsound mind, and to any other person or corporation making written claim therefor, on account of the appropriation of or injury to his property by the laying out and establishment of any such new highway or any improvement of any highway prescribed in such report. At the next regular session of such board of commissioners, after the expiration of said ten days, said viewers shall make to said board their supplemental report in writing, setting forth the sums allowed as damages to each infant, idiot or person of unsound mind, and the sum allowed as damages to each other person or corporation making written claim therefor as herein prescribed, together with a description of the property in each case on account of which such damages have been allowed. No damages shall be allowed to or recovered by any person other than an infant, idiot or persons of unsound mind, unless claim therefor shall have been made by him to such viewers before the filing of such supplemental report. Every person or corporation who has made such written claim for damages, and every infant, idiot or person of unsound mind or his guardian, who shall be dissatisfied in respect to the action of such viewers in respect to his claim or in respect to the damages allowed to him, may except to such supplemental report in writing on that account at the session at which the same is filed, whereupon such board of commissioners shall appoint three other viewers to reconsider the same, which viewers shall take and subscribe an oath faithfully to discharge their duties, and shall examine the lands or property claimed to be affected and assess such damages in each case as they deem to be just and reasonable, and make report of their doings in writing to said board. The board shall cause said supplemental report and the report of such additional viewers to be spread of record, and in event that the road or improvement on account of which such damages are allowed shall be finally established and ordered to be constructed, such damages shall be paid out of the proceeds of the sale of the bonds hereinafter authorized: *Provided,* That if the amount of damages awarded by the reviewers is not 10 per cent. greater than the amount assessed by the reviewers, the claimant shall pay all costs made by said reviewers.

Order for Election—When Made—Notice.

SEC. 70. When all matters in respect to damages have been determined finally, as hereinbefore provided, such board of commissioners shall examine the reports and profile made by engineer and viewers, and if they find and adjudge the same to be in due form and sufficient, they shall make an order requiring the auditor

to give notice by publication for three consecutive weeks in a weekly newspaper of general circulation, printed and published in said county, that on a day to be named by the board the polls will be opened at the several voting places in each township named in the petition and report for the purpose of taking the votes of the legal voters thereof, whether the proposed new highway or highways named in the petition and report shall be laid out, established, graded, drained and paved, or the public highway or highways named therein shall be graded, drained and paved, and that said petition and report and all records and matters pertaining to said matters may be found at the office of said auditor, and the auditor shall publish such notice as required by the order: *Provided,* That said publication shall contain the report of the viewers and engineer, excepting the plats and profiles: *and Provided, further,* That if any petition filed as provided in section 63 of this act calls for the building or improvement of a road three miles or less in length connecting at each end with an improved free gravel or macadamized road either within said township or townships or at the boundaries thereof, or connecting a free gravel or macadamized road with a boundary of said township, or connecting an improved free gravel or macadamized road with the boundary line of any incorporated city or town in the same township, or connecting the boundary line of any incorporated city or town with the boundary line of the township in which said incorporated city or town is situated, the board of county commissioners may, in their discretion, if they find said petition otherwise complies with this act, establish and order the construction of said road without submitting the question of building the same to an election of the voters of the township or townships concerned: *Provided,* That if, within twenty days after the day set for the hearing of said petition, there shall be filed with the board of commissioners, a remonstrance signed by a greater number of the freeholders and voters of the township or townships, to be affected by such petition, than appear upon said petition, asking that said highway, three miles or less in length, shall not be opened or improved, or improved as therein asked, then said board of commissioners shall not order said road improved and said petition shall be dismissed at the cost of the petitioners. But if no such remonstrance is filed, as above provided, said board shall proceed to have said road constructed in all other respects as if submitted to an election and voted as hereinafter provided: *Provided,* That no person signing said petition shall be counted on any remonstrance against such petition: *Provided, further,* That any taxpayer of the county, aggrieved by the action of said board, may appeal from its decision to the circuit court of said county within ten days in the same manner as other appeals are taken from the action of such board, and said cause shall by said circuit court be tried de novo. (As amended. Acts 1913, p. 419.)

Opening of Polls—Rules—Ballot—Canvass of Vote.

SEC. 71. On the day named in said notice such polls shall be opened and the votes of the legal voters shall be taken upon the

matters named therein, and such election shall be governed in all respects by the general laws of this state concerning elections in so far as the same are applicable. The board of election commissioners for such election shall consist of the auditor and two commissioners to be appointed by the board of commissioners, and they shall prepare and cause to be printed the ballots therefor and distribute the same in the manner required by law. The ballots shall set forth a description of each highway and proposed highway in question, and following the description in each instance there shall be printed two squares and words as follows:

YES	For the road.
NO	Against the road.

Each voter desiring to vote for the establishment or improvement of any such road shall mark a cross with a blue pencil in the square containing the word "Yes," and each voter desiring to vote against such establishment or improvement shall mark such cross in the square containing the word "No." The votes cast at such election shall be canvassed at the office of such auditor on the Thursday next following the election, and a certificate of the votes cast for and against each road or improvement, signed by the inspectors, shall be filed with said auditor and by him shall be submitted to the board of commissioners at their next session. If a majority of the votes cast at any such election be found to be in favor of the establishment and improvement, or improvement of any such road or proposed road, the board of commissioners shall make an order establishing such road or work and requiring the same to be laid out, established, graded, drained and paved, or graded, drained and paved, as the case may be, in accordance with the terms of the report and the plans and specifications and profile therefor.

Highways—Petitions—Connecting Roads—Joint Election.

SEC. 72. If all the roads described in the report of engineer and viewers are connected with each other so as to form one system, the whole may be voted upon as one road, if the petitioners so pray in their petition. If two or more petitions respecting roads in the same township shall be pending at the same time, they shall be voted upon at the same election. No street in any incorporated town or city shall be improved under the provisions of this act, without the consent of the trustees of said town or the common council of such city, by resolution duly adopted, a certified copy of which shall be filed in the office of such auditor and entered upon the records of the board of county commissioners before such improvement shall be ordered: *Provided*, That if any street of any town or city is improved under the provisions of this act, and the expense per mile of such improvement is greater than the average expense per mile of road or roads constructed or which may be constructed of gravel, broken stone and combinations thereof in

such township outside the limits of every city or town in such township, then such excess cost of such improvement shall be charged against so much of said taxing district as may lie in said city or town, and collected at the same time and in the same manner as the remainder of the cost of such road is collected. Such board of county commissioners shall issue bonds for the entire cost of such improvement and levy an annual tax to pay the principal and interest thereof as is now provided by law. After any street shall have been improved hereunder, the trustees of such town or the common council of such city shall have control of the same and shall maintain the same in repair. (As amended. Acts 1913, p. 514.)

Notice to Bidders.

SEC. 73. When any such highway or part of highway shall have been ordered to be laid out, established, graded, drained and paved, as herein provided, or any public highway or part thereof, shall have been ordered to be graded, drained and paved, as herein provided, it shall be the duty of the board of commissioners to make an order requiring the auditor to give notice by publication one time in a daily newspaper of general circulation throughout this state, published at Indianapolis, and by publication for three consecutive weeks in a weekly newspaper of general circulation printed and published in the county, that on a day to be named by such board in such order, sealed proposals will be received by said board for the making of said improvements in accordance with said profile and report and the plans and specifications therein set forth. If there be more roads than one the notice shall relate to all. The auditor shall give the notices as ordered, and the notice to be published at Indianapolis shall be published at least two weeks before the day named therein. If the board deems it advisable, it may require similar notices to be posted at public places in the township in which the road or roads are located.

Contract—Bond by Bidder.

SEC. 74. On the day and at the time and place named in the notices the board shall convene in session and shall receive all sealed proposals tendered and shall open the same in the presence of the bidders and shall let the contract for the construction of such road or improvement to the lowest responsible bidder therefor, but no contract shall be let for a bid higher than the estimates made by the viewers: *Provided,* That with his proposal such bidder shall submit his bond, payable to the State of Indiana, in a penal sum equal to double the sum of his proposal, with good and sufficient sureties to the approval of the board, conditioned for the faithful performance of the work in accordance with the profile and report and the plans and specifications therein set forth, which bond shall be for the benefit of any person or corporation who shall suffer loss or damage by reason of any failure or neglect of such bidder to enter into a proper contract to perform such work

or to carry out the same in any particular, or to pay for any labor or material therefor that shall have been furnished either to him or to any sub-contractor, agent or superintendent under him. If the proposal includes more than one highway or improvement one bond covering all shall be sufficient.

Issue of Bonds—Interest.

SEC. 75. For the purpose of raising money to pay for the construction the board of commissioners shall issue the bonds of the county not to exceed in amount the contract price and all expenses incurred and damages allowed prior to the letting of the contract and a sum sufficient to pay the per diem of the engineer and superintendent hereinafter provided for during the construction of the work in denominations not less than fifty dollars ($50.00) each in forty (40) equal series, the first series payable in six (6) months, the second series in one year, the third series in one year and six months, the fourth series in two years, the fifth series in two years and six months, the sixth series in three years, the seventh series in three years and six months, the eighth series in four years, the ninth series in four years and six months, the tenth series in five years, the eleventh series in five years and six months, the twelfth series in six years, the thirteenth series in six years and six months, the fourteenth series in seven years, the fifteenth series in seven years and six months, the sixteenth series in eight years, the seventeenth series in eight years and six months, the eighteenth series in nine years, the nineteenth series in nine years and six months, the twentieth series in ten years, the twenty-first series in ten years and six months, the twenty-second series in eleven years, the twenty-third series in eleven years and six months, the twenty-fourth series in twelve years, the twenty-fifth series in twelve years and six months, the twenty-sixth series in thirteen years, the twenty-seventh series in thirteen years and six months, the twenty-eighth series in fourteen years, the twenty-ninth series in fourteen years and six months, the thirtieth series in fifteen years, the thirty-first series in fifteen years and six months, the thirty-second series in sixteen years, the thirty-third series in sixteen years and six months, the thirty-fourth series in seventeen years, the thirty-fifth series in seventeen years and six months, the thirty-sixth series in eighteen years, the thirty-seventh series in eighteen years and six months, the thirty-eighth series in nineteen years, the thirty-ninth series in nineteen years and six months, the fortieth series in twenty years (from the 15th day of May or the 15th day of November, as the case may be), after the date of their issue: *Provided*, That if the date of issue shall be prior to the date of the annual tax levy, then the first bond and the interest coupons on all of the bonds shall mature on the 15th day of May of the next succeeding year, and the balance of the bonds shall mature from the said 15th day of May in the intervals provided herein: *And, provided, further,* That if said bond issue shall be

made in any year after the date of the general tax levy, then the first bond and all of the first interest coupons shall mature on the 15th day of May, of the second succeeding year thereafter and the balance of the bonds and coupons at the regular intervals as provided herein after said 15th day of May of said second succeeding year: *Provided,* That the petitioners for any road or roads, as in the act provided, may in their petition, ask that the issue of bonds to be issued and sold to raise moneys to pay for such improvement be issued in series, payable in not less than ten years and not to exceed twenty years in the denominations named in this act, as petitioners may designate in their petition, and the board of county commissioners shall issue the bonds for such improvement in compliance with the request of such petitioners: *Provided, further,* If the petitioners in any such petition fail to ask for any certain term of years in which such bonds shall be payable, then in case of such failure the board of county commissioners shall designate and determine the term of years for which such bonds shall issue and be payable. Such term to be not less than ten, nor more than twenty years. The county treasurer shall sell bonds at not less than their face value, and the proceeds shall be kept as a separate and specific fund to pay for construction of the particular road or roads for which they were issued and to pay the cost incurred in the construction of the road, and the contractor for the construction of the same, to be paid by the said treasurer upon the warrant of the auditor, as directed by the board of commissioners. The commissioners shall order the same to be paid in such amount and at such times as they may agree, but no payment shall be made by the commissioners for more than eighty (80) per cent. of the engineer's estimate of work done by the contractor, nor shall the whole amount of the contract be paid until the road shall have been received as completed by the board of commissioners. (As amended. Acts 1907, p. 572.)

NOTE.—This section was amended February 25, 1907 (Acts 1907, p. 68), without an emergency clause; but as the section above set out was adopted March 12, 1907, with an emergency clause, it takes the place of the earlier amendment.

Tax to Pay Bonds.

SEC. 76. For the purpose of raising money to meet said bonds and interest thereon, the board of commissioners shall annually thereafter at the time the general tax levy is made, levy a special tax upon the property of the township or townships, in such manner as to meet the principal and interest of said bonds as they become due, and such tax shall be collected as other taxes, and shall be applied to the payment of such bonds and interest. If the road or section thereof so constructed runs into or through two or more townships, the amount paid thereon shall be divided and charged upon the property of each township, in the same ratio that the assessed valuation of all the property in each township

bears to the assessed valuation of all the property in all of the townships through which the said road or roads run, and said special tax to be levied accordingly. That when any contract shall have been awarded to any contractor for the construction of said road or roads under this act he shall give preference in employing labor for the construction of said road or roads to the citizens of the township or townships, towns or cities in which said road or roads are to be constructed: *Provided, however,* That said preferred labor shall be as good and effective as that which could be procured elsewhere, and at no higher cost: *and Provided, further,* That any taxpayer of the township or townships where said roads are, who may render any service or labor, or may furnish any material for the construction of said roads, may, if he shall so elect, demand of the contractor a certificate stating the value of the amount of service or material furnished, and if any such certificate shall be issued the county treasurer shall receive the same and it shall act as a quietus against a similar amount of taxes against the property of said taxpayer, and all such certificates shall be deducted from the contract price of the said road or roads by said contractor. (As amended. Acts 1913, p. 421.)

Free of Toll—Repair.

SEC. 77. All roads built under this act shall be free of toll, and shall be kept in repair the same as other free gravel roads constructed under the other laws of the state are repaired.

Highways—Cost—Transfers to Road Fund.

SEC. 78. After the payment of the costs of construction of said road or roads, should there be any surplus collected or due on delinquent taxes for that purpose, it shall be transferred to the road fund of the township in which such road was built. (As amended. Acts 1911, p. 613.)

Amendments—Superintendent—Bond.

SEC. 79. The board of county commissioners shall have power to permit amendments to be made to the petition of said freeholders, or report of viewers and to extend the time to the viewers to make their report and to continue the hearing from time to time. so as to subserve the ends of justice. It shall be the duty of the board of county commissioners to appoint a competent superintendent to supervise the construction of such road or roads according to the plans, profiles and specifications filed by the engineer and viewers, on which the contract to construct such road or roads was let. He shall be a resident of one of the townships in which the road or roads are located, and his compensation shall not exceed two dollars ($2.00) per day for the time actually employed, to be paid out of the construction fund of said road or roads, and he shall render an account of his time to the commissioners monthly

at the regular term of their court, subscribed by oath. He shall give bond in the penal sum of five thousand dollars for the faithful discharge of his duties. The engineer of such road or roads shall also give bond in the penal sum of six thousand dollars for the faithful discharge of his duties, and said superintendent or engineer or both if in default, shall be liable to the township or townships constructing such road or roads on such bond or bonds at the suit of any taxpayer interested in such road or roads for failure to cause said road or roads to be built and constructed according to the plans, profile and specifications under which the contract to construct the same was let.

Record—County Auditor.

SEC. 80. The county auditor shall make a complete record of all proceedings in making such improvements.

Limit as to Bonds.

SEC. 81. It shall be unlawful for any board of county commissioners to issue bonds, or any other evidence of indebtedness payable by taxation, for the construction of free gravel or macadamized roads, when the total issue for that purpose, including bonds already issued and to be issued, is in excess of four (4) per centum of the total assessed taxable valuation of the property of the township or townships wherein such roads are located or to be located, and all bonds or obligations issued in violation of this act shall be void.

Completion—Report—Finding—Appeal.

SEC. 82. Whenever any superintendent and the engineer of any road or roads constructed under the provisions of this act, believes that the road or any part thereof, less than the whole of such improvement is completed, as required and according to the plans, plats, profiles and contract, under which the improvement was let, then such superintendent and engineer shall each file their sworn statements with the auditor of the county, which sworn statements shall state that such road or roads, or part thereof, has been completed according to the plans, plats, profiles and contract, under which said improvement was let, and that the quantity and quality of material used in making said improvement was the kind of material, and that the quantity was used as required in the contract, the board of county commissioners shall not act on such proof of the completion of such road or roads or part thereof, until the said sworn statements have been filed with the auditor at least ten days before the first day of any regular term of said board, and if, within said ten days, any taxpayer interested in such improvement shall file his sworn statement with the auditor that such road or roads or part thereof has not been completed according to the plans, plats, profiles, and contract under which

such improvement was let, and states specifically in what particular the same has not been completed, then, in such case, the board of county commissioners shall set a day for hearing such issue and hear other proof on such matter, and may cause witnesses to be subpœnaed, and hear sworn evidence in the same manner as other issues are heard before the board of commissioners. And if the board of county commissioners find that such road or roads or part thereof, has been completed according to the plans, plats, profile, and contract under which such improvement was let, then such board of commissioners shall accept and receive such road or roads or part thereof, but if the board of county commissioners find that such road or roads or part thereof has not been so completed, then such board shall refuse to accept the same and require the contractor to complete the same according to the plans, plat, profiles and contract: *Be it further provided,* That if the board of commissioners find that such road or roads or part thereof has been completed according to contract, then in such case the taxpayer who filed his affidavit and formed said issue shall pay all costs, made in any such hearing, and a judgment shall be rendered against him for the same; but if they find that the road or roads or part thereof has not been completed according to contract, then the costs made in such hearing shall be paid by and judgment rendered against the contractor for the same: *Provided further,* That such taxpayer or contractor may appeal from such decision and finding of the board of commissioners to the circuit court of the county at any time within thirty days from such decision, upon filing a bond to the approval of the auditor of the county, conditioned for the payment of all costs in the cause that may be adjudged in the circuit court against the person taking such appeal, such proceedings to be tried de novo in the circuit court.

Additional Bonds.

SEC. 83. Whenever in any proceedings heretofore had under the provisions of an act of the general assembly of the State of Indiana, entitled "An act concerning the location and construction of free gravel, stone or macadamized roads, providing for raising funds to pay for the same and for their maintenance, and providing for the repeal of other acts touching the same subject matter, and declaring an emergency," approved March 11th, 1901, or under said act and acts amendatory thereof or supplementary thereto, the board of commissioners of any county shall have erroneously let a contract for the construction or improvement of any free gravel, stone or macadamized road or roads, in any township, or townships, at a contract price, within the estimates made by the engineer and viewers, but in a sum so large as not to leave sufficient of the funds realized from the sale of bonds in the same proceeding to pay the sum named in such contract and also the other expenses incurred in such proceeding, such board of commissioners, for the purpose of raising money to

county in an aggregate sum equal to such deficiency, but in no event in excess of ten per centum of the original estimates in said proceedings and not exceeding the sum of one thousand ($1,000) dollars, payable in five years, in the same manner, with interest at the same rate and out of funds raised by the same process, as in the case of other bonds issued in the same proceedings. (As amended, Acts 1909, p. 104.)

Purchase of Toll Roads—Petition—Appraisement—Payment.

SEC. 84. The board of commissioners of any county in this state, when petitioned so to do by one hundred freeholders of the county, may purchase any or all plank, gravel, macadamized and other toll roads in such county held or owned by any person, persons or corporation, and may pay for the same as hereinafter provided. Upon the filing of such petition, such board shall make an order directing that the road or roads named in such petition shall be appraised, and for that purpose shall appoint one appraiser, and request the judge of the circuit court of such county to appoint another, and the person, persons, company or corporation owning such road or roads, a third; whose duty it shall be to appraise such road, or roads, as hereinafter provided, and report such appraisement to such board of commissioners: *Provided, however,* That where such petition asks for the purchase of more than one road, the person, persons, company or corporation owning each road shall have the right to select one appraiser, who, with those selected by such board and judge, shall appraise the road owned by the person, persons or corporation appointing him. Such appraisers, in making an appraisement of any such road shall value it at its fair cash value, taking into consideration the manner of its construction, its condition as to repair and its net annual income, to be determined by the average amount thereof, for the five years next preceding such appraisement, as shown upon the books of such company, which average income they shall also report. After the return of such appraisement, which shall be filed with the county auditor, such auditor shall convene such board in special session, if it is not at the time in session, and shall notify the president of the company or the person or persons owning the road of the time of such meeting, and if such board and such owner or owners can agree upon terms, such board shall make an order upon its records for the purchase of such road or roads, setting forth the price and manner of payment; which price shall in no case exceed the appraised value thereof. Whenever an agreement to purchase any such toll road has been entered into as herein provided, the purchase money may be paid, in whole or in part, out of the general funds in the county treasury appropriated therefor, and if the funds in the treasury that can be used for such purpose are not sufficient, the bonds of the county may be issued therefor in the usual form, bearing not to exceed six per cent. interest, to an amount sufficient to perfect such purpose, and falling due at such times as shall be determined, not exceeding ten

years; and the county treasurer shall sell [such] bonds, in the same manner as other county bonds are sold, to procure the amount required, or may deliver the same to the vendor of such road in payment thereof: *Provided, however,* That no money shall be paid, or bonds delivered to such vendor until a conveyance has been made of such toll road, including its franchises, to such county. And when so conveyed, such road shall thenceforth be free, and shall be kept in repair, as provided by law for the repair of other roads.

NOTE.—Sections 85, 86, 87, 88, 89 and 90 of the act of 1905, concerning highways, are expressly repealed by section 11 of an act of the general assembly of the State of Indiana, approved March 15, 1913. See Acts 1913, p. 884.

REPAIR OF HIGHWAYS.

Supervisors—Election—Pay—Districts.

SEC. 91. The qualified voters in each road district of the several townships of the several counties in the state shall, on the second Saturday after the first Monday in December, 1905, and every two years thereafter, elect a supervisor who shall hold his office for the term of two years and until his successor is elected and qualified. Road districts shall not be held to include any part or parts of cities or incorporated towns that may be in the township in which such road districts are located. Each supervisor shall receive the sum of one dollar and fifty cents per day for his services actually performed, not exceeding forty days in any one year to be paid out of the township treasury, but before receiving the same he shall file his sworn statement with the trustee of the township, which statement shall specify the days on which such services were performed: *Provided,* Such supervisor shall not be entitled to charge or receive any compensation whatever for a number of days equal to the number required of other persons of his road district liable to work on highways. Upon the taking effect of this act, if deemed necessary by any trustee of any township, such trustee shall divide his township into not more than four nor less than two road districts as nearly equal in number of miles of road as practicable and appoint supervisors therefor, to hold their offices until their successors are elected and qualified, and if any additional road districts shall be created he shall appoint supervisors thereof to hold their offices until their successors shall be elected and qualified as herein provided; and whenever such trustee shall deem it necessary he may make any change in such road districts that may subserve public interests: *Provided,* That any change of the existing boundaries of road districts shall not be made except upon petition of six freeholders living in the immediate vicinity of the change proposed to be made. On dividing his township into road districts, or where any change is made therein, such trustee shall record a plat thereof in the highway record of his township.

which shall show the roads and parts of roads belonging to each road district. Each supervisor shall at the time of his election or appointment be a qualified voter of the road district for which he is elected or appointed.

SEC. 92. On or before the first day of December, 1907, each township trustee shall divide his township into any suitable number of road districts, not to exceed four: *Provided,* That in all civil townships exceeding 36 square miles in area, the township trustee may divide his township into any number of road districts, not exceeding six. Such road districts shall not be held to include any part or parts of cities or incorporated towns that may be in the township in which such districts are located. Such road districts shall be as nearly equal in number of miles of roads as practicable, and a plat thereof shall be recorded in the highway record of the township, which shall show the roads and parts of roads belonging to each such district. Whenever such trustee shall deem it necessary he may make such changes in such road districts as will subserve the public interests. The qualified voters in each road district in the several townships of the several counties in the state shall, on the second Saturday after the first Monday in December, 1907, and every two years thereafter elect a supervisor, who shall hold his office for the term of two years and until his successor has been elected and qualified. Each supervisor shall at the time of his election or appointment be a qualified voter of the road district for which he is elected or appointed. Any vacancy occurring in the office of supervisor shall be filled by the township trustee by appointment for the unexpired term; and when an appointment of supervisor is made by such trustee, he shall make a certificate of such appointment and deliver the same within three days after such appointment to the person so appointed. (As amended. Acts 1907, p. 371.)

Vacancies—How Filled—Exemption.

SEC. 93. When there shall be a failure to elect a supervisor for any district, and also in case a vacancy shall occur in such office for any cause, the trustee of the township in which such district is situated, as soon as he is informed of such failure or vacancy, shall appoint a supervisor who shall hold his office until the next biennial election; and when an appointment of supervisor is made by such trustee he shall make out a certificate of such appointment and deliver the same, within three days after such appointment, to the person so appointed. Any person may be exempt from serving as such supervisor by paying into the township treasury the sum of six dollars, and in such case, the vacancy shall be filled as hereinbefore provided; but no person shall be compelled to serve oftener than one term in six years.

SEC. 94. Such supervisor shall take an oath, before entering upon the discharge of his duties, for the faithful performance thereof, and give a bond with surety, to be approved by the township trustee and conditioned for the faithful discharge of his du-

ties, in a sum not less than two hundred dollars, which bond shall be deposited with the township trustee. He shall carry into effect all orders of the trustee of the township in which the road district is situated, touching the highways and bridges therein, and keep the same in good repair. He shall also call out all persons in such district liable to work on highways therein, superintend the labor thereon, see that the same is faithfully performed and report to the trustee all fines and commutation moneys due such district and the same shall be collected by such trustee: *Provided,* That if any person elected or appointed supervisor shall be unable to give such bond, such inability shall be a defense to the collection of the forfeiture provided for in the preceding section, and the township trustee shall appoint some one else as supervisor. Such supervisors shall have charge of and work and keep in good repair the roads of their respective districts. They shall be subject to the control and direction of the township trustee, who shall see that their duties be faithfully performed, and who shall see that the roads of the townships are dragged whenever the weather conditions make such work advisable. Each road supervisor shall receive for his services actually performed the sum of two ($2.00) dollars per day, for not to exceed sixty days in any one year. Before receiving such pay he shall file a sworn statement with the trustee of the township, which statement shall specify the days and roads upon which such services were performed. Such supervisor shall not be entitled to charge or receive any compensation whatever for a number of days in each year equal to the number required of other persons of his road district liable to work on highways. Upon failure or neglect to carry out or perform such duties as are imposed upon him, any supervisor shall be liable upon the bond hereinafter provided for. (As amended. Acts 1907, p. 371.)

Who Required to Work—Time.

SEC. 95. Such supervisor shall call out all able-bodied male persons, except insane, idiotic, deaf and dumb, and blind persons, who are residents of such district and are over the age of twenty-one years, and under fifty years of age, and not exempt from such labor, during not less than two nor more than four days of each year, between the first day of May and the first day of December of each year. The supervisor shall require such persons to work on the highways of such district eight hours each day, and to furnish in such labor any tool that the supervisors may direct, if the demand therefor be a reasonable one. Any person able to perform an ordinary day's labor shall be deemed able-bodied, within the meaning of this act, although the person may be in some respects disabled: *Provided,* That no person who served in the army or navy of the United States during the war for the Union or the war with Spain or in the Philippine Islands, and who was honorably discharged therefrom, shall be required to labor on the public highways.

Teams—Credits.

SEC. 96. Such supervisor may require any person liable to work on such highways who is the owner of an ox, mule or horse team, road scraper, road scoop, cart or wagon to furnish the same, and a driver, in such labor on such highways, and such person shall receive credit for two days' labor for each day's service by such driver and team, and shall be given a receipt by such supervisor accordingly.

False Credits—Penalty.

SEC. 97. Any road supervisor who shall issue and deliver to any person his receipt, giving credit for work done on highways in his district, when such person to whom, or for whom such receipt is issued, has not actually worked or caused work to be done for the full time that such receipt gives credit for at the rate of eight hours for one day's work or has not paid the commutation money as provided by law, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than ten dollars nor more than fifty dollars for every such receipt so issued.

Notice of Work.

SEC. 98. Such supervisor shall notify each person in his road district liable to work on the highways thereof of the time and place of working on such highways, at least three days prior to the time designated for such work. Such notice may be verbal or written, and if written shall be left at the residence of the person so notified.

Exemption from Labor.

SEC. 99. On application to the township trustee any person liable to work on the highways may be exempt therefrom if it be shown that he is unable from bodily infirmities to work thereon and that he is too poor to pay the commutation therefor; also any person who is a bona fide member of a legally organized fire company, located in any city or town in this state. And in such cases the township trustee shall execute to such person a certificate, which shall, on being presented to the supervisor, entitle him to such exemption.

Commutation Money—Use.

SEC. 100. Any person liable to work on the highway may be exempt therefrom by paying to the supervisor of his road district one dollar and fifty cents for each day he is liable to work thereon, and in that case he shall receive a receipt therefor from the supervisor. Such supervisor shall be authorized to employ some person or persons to work out such money, at the rate of one dollar and

fifty cents per day, on the roads of his district; or, failing so to do, he shall pay over all such money into the township treasury, for the benefit of the road district.

Failure to Work—Penalty.

SEC. 101. Every supervisor, within ten days after warning out the hands liable to work in his district, shall notify the trustee, who shall bring suit before any justice of the peace of the township in which such district is situated, and in the name of such township, against such persons as fail to work or pay over the commutation money therefor; and in such suit it shall be necessary to file only an account stating the number of days which each of such persons so failed to work or pay for, and charging one dollar and fifty cents per day each therefor; and in case of a recovery against any such defendant, the judgment shall be rendered for one dollar and fifty cents for every day the defendant so failed, and costs of suit, and no stay of execution or benefit of exemption, valuation or appraisement laws shall be allowed on such judgment. In case any such trustee shall fail to bring suit, after having been so notified by such supervisor, he shall forfeit and pay the sum of ten dollars, to be recovered in an action brought by the prosecuting attorney, before any justice of the peace of the township, in the name thereof; and all money so recovered under the provisions of this section shall be received and expended under the direction of the township trustee by the proper supervisor in the improvement of the highways of his district: *Provided,* That any such trustee shall not be required to bring suit against any person from whom there is no probability of collecting, or who, at the time of working, shall be sick or otherwise unable to labor. If such person so temporarily sick or disabled be liable to pay commutation, he shall so pay, or the trustee shall sue therefor within sixty days. No person able to pay commutation shall be exempt on account of bodily disability.

Substitutes.

SEC. 102. Any person liable to perform labor on the public highways, when notified for such purpose, may appear in person or by an able-bodied substitute, and the person or substitute so appearing shall actually work eight hours each day, under penalties of twenty-five cents for every hour such person or substitute shall be in default, to be deducted by the supervisors from the price of the day's labor.

Idling—Penalty.

SEC. 103. If any such person or his substitute, after appearing, shall remain idle or not work faithfully, or shall hinder others from working, such offender shall, for every such offense, forfeit

the sum of one dollar and fifty cents, to be collected from such person as other fines and forfeitures herein specified, and such person or his substitute shall be discharged by the supervisor without credit for any part of the work he may have done.

Repairs—How Made.

SEC. 104. Such supervisor, within ten days after the receipt of any money which he is not required to pay over to the township trustee, shall proceed to employ laborers to repair the highways in his district, but shall not pay more to such laborers than is customary in his district for similar services, and such supervisor shall superintend such repairs; but in no case shall such supervisor neglect to repair such highways, and if such labor shall be insufficient therefor, he shall call out the hands in his district to complete such repairing. If any person so called out shall refuse to work, he shall be liable to pay the commutation money therefor, and it shall be the duty of the trustee to bring suit for the same as provided in section one hundred and one of this act.

Extra Labor—Credit.

SEC. 105. When such extra labor provided for in the next preceding section shall not require all the hands in the district, or an equal amount of labor from each, the supervisor may assess the same upon such hands as he may deem sufficient, and for the excess of work performed by any one over the average amount performed by all he shall give to each person performing such excess a certificate of the amount thereof, which shall be credited to the holder on account of any subsequent labor to be done by him on the highways in his district.

Entry on Land—Damages Assessed—Appeal.

SEC. 106. The supervisor, or any other person by his order, may enter upon any land adjoining or near to any highway in his district, and thereupon construct such ditches, drains and dams, and dig and remove such gravel, earth, sand or stone, or cut and remove such wood or trees as may be necessary for the proper construction, repair or preservation of such highways; and the supervisor, together with two disinterested persons, shall proceed at once to the locality and assess such damages in favor of the owner of the lands thereof, as in their judgment seem right and proper, and report the same under oath, within ten days after such assessment, to the trustee, having first given notice thereof to the party damaged, and such trustee shall pay the damages assessed out of the township treasury. The oath to such appraisers may be administered by the supervisor, and the oath to the supervisor may be administered by the trustee. No person's land shall be entered, when material can be found on the roadway, or convenient in the district on the roadways thereof, nor when drainage can be made

on the roadway, at a cost not exceeding the cost and damages of entering upon private lands. In all cases contemplated in this section, demand shall first be made of the owner of the land before entering thereon or taking material. If he assent, he may point out the material and the location from which it is to be taken, and, if accessible and fit for the purpose intended, the material shall be there taken. If consent be refused by the owner, the supervisor shall notify such owner of his intention to so enter, for what purpose and for what time, and point out the land to be occupied, or the material to be taken. In all assessments of damages the owner shall be notified, and have leave to select one appraiser, and shall have notice of the time and place of the meeting of the appraisers, and privilege to offer evidence as to damages at the time of the assessment by the appraisers: *Provided, also,* That any person aggrieved may appeal from the action of the appraisers to any justice of the peace of the township, by giving notice in writing to the road supervisor. Such notice must be given within ten days after final action by the appraisers, and such person shall give bond within thirty days after final action by the appraisers. Such bond shall be payable to the trustee, and shall be filed with and approved by the appraisers, and thereupon the papers shall be delivered to the justice of the peace; and such appeal shall be determined as other questions are determined in civil cases before justices of the peace.

Obstruction—Removal.

SEC. 107. When a public highway, running through or bordering upon a tract of real estate, shall become obstructed, the owner or occupant of such land shall remove such obstruction as soon as the same shall come to his knowledge, for which the proper supervisor shall allow him a reasonable credit on his liability to work on the highways, unless the obstruction be caused by the act of such owner or occupant, in which case he will be required to remove the same without any credit.

Trees—Ownership.

SEC. 108. All trees standing or lying on the land over which any highway shall be laid out, which it shall be necessary to remove in the opening of such highway, shall belong to the owner of such land, if he shall remove the same before the supervisor is required to open such highway; but all such trees and down timber, or other material found on such premises, may be taken and used by the proper supervisor for the construction or repair of the highway or of any bridge thereon.

Bridge or Culvert.

SEC. 109. If the township trustee of the township where any proposed bridge or culvert is to be located or repaired shall notify

the board of commissioners of his county of the necessity of such location or repair, and if in the opinion of the commissioners the public convenience shall require the building or repairing thereof, they shall cause surveys and estimates to be made and provide for the erection of the same: *Provided,* That if the board of commissioners shall not deem such bridge or culvert of sufficient importance to justify an appropriation from the county treasury for the building or repair thereof, the trustee of the township in which is located such bridge or culvert may appropriate any part of the road fund in the township treasury for that purpose, if he shall deem it right and expedient to do so.

Levy of Road Tax—How Paid.

SEC. 110. The township advisory board, on an estimate made by the township trustee, shall levy annually on or before the first Tuesday in June a road tax of not more than thirty cents on one hundred dollars to be levied according to the amount of real and personal property owned in such township, outside of the corporate cities and towns subject to taxation for road purposes, to be collected as other taxes are collected, except all road taxes are to be collected with the first yearly installment of taxes: *Provided, however,* That the taxes so assessed on real estate shall be worked out, as near as practicable, in the road district in which such real estate lies, and the taxes assessed on the personal property in the district where the owner resides, at the rate of one dollar and fifty cents per day for each man. Such supervisor may require any person liable to work on such highways who is the owner of an ox, mule or horse, team and plow, road scraper, road scoop, cart or wagon to furnish the same, and a driver, in such labor upon such highways, and such person shall receive a credit for two days' labor therefor, and shall be receipted by such supervisor accordingly: *Provided, further,* That the township trustee may, with the consent of the township advisory board, levy an additional tax, not to exceed ten cents on one hundred dollars' valuation, to be paid into the county treasury with the first installment of taxes and to be paid by the treasurer to the township trustee, to be expended for the construction and repair of bridges and culverts and for other road purposes. It shall be the duty of the county auditor to procure and deliver each year, on or before the 10th of September to the proper township trustee, a list of all road taxes assessed on each individual in his township, and the receipt of the supervisor of the proper district for the amount worked out by any taxpayer shall be taken by the treasurer of the county in payment of so much of said taxes, if presented during the year in which the labor has been performed, or the year following upon the performance of said labor. No supervisor shall issue receipt for work performed by himself, except for his own road tax, and no county treasurer shall receive the certificate of any supervisor except in payment of taxes on which the work shall be performed: *And, provided further,* That the taxes so assessed on the real estate and personal

property shall be worked out, as near as practicable, in the road district in which said real estate is situate, and the personal property under the supervision of the supervisor of the district where said labor is performed, in the district in which the owner resides, upon three days' notice of the time and place such labor is to be performed: *Provided, further,* That the road tax assessed on real and personal property shall be worked out on or before the first day of December of the year for which the levy was made. All credits allowed by county treasurers for road taxes worked out, upon settlement with the township trustee, to be properly distributed and charged, and road supervisors are required to make out and deliver to the township trustee, on or before the first day of December in each year, a statement containing a true list of persons of their respective road districts having worked out their road tax, or any part thereof, during the year, together with the amount worked out by each person.

Expenditure of Road Tax.

SEC. 111. The township trustee shall order the expenditure of the funds derived from the tax provided for in the last section in the improvement of the highways of his township under such regulations as he may deem expedient for the public interest, and for this purpose shall pay such sums as may be necessary, on the order of the supervisors of the township, for work done by them under his direction. Such order or orders drawn upon the trustee shall distinctly state the services performed by the person or persons to whom the order is given.

Letting Work by Contract.

SEC. 112. Such trustee may let out the work contemplated in the last preceding section to the lowest responsible bidder, and for this purpose he may cause notices to be posted up in three of the most public places in the township, that proposals will be received under such regulations as he may prescribe, at a time and place to be by him designated, for the improvement or repair of all the highways and bridges, or any part thereof, in such township; and in all such cases such trustee shall adopt such regulations as to the extent of the improvements or repairs, terms of payments, superintendence of the work, and the time of commencement and completion thereof, as he may deem proper. Payments on such contracts, according to the terms thereof, shall be made by the trustee out of the road or bridge funds in his hands.

Injuring or Obstructing Highway—Penalty.

SEC. 113. Any person who shall injure any dam, drain, embankment, ditch or other construction made for the protection of any highway or bridge, or who shall wilfully destroy any guidepost, or deface any inscription or device thereon, or who shall unneces-

sarily, and to the hindrance of passengers, obstruct any highway or bridge, and who shall, when driving any vehicle, fail to pass to the right when meeting another vehicle, so as to allow it to pass without injury, for every such offense, shall forfeit the sum of five dollars, to be recovered by the trustee in the name of the township before a justice of the peace of the county; and for every day such obstruction is continued the same sum shall be recovered. In all such cases such trustee, within three days after receiving information of any such offense, shall commence such suit, and the sum recovered thereon shall be used for the benefit of the highways of such township. In case of a recovery in any such action the justice of the peace shall tax, as costs, the sum of five dollars as attorney's fees for plaintiff's attorney.

Suit by Successor.

SEC. 114. All such suits commenced by one trustee may be continued by his successor in office, and no costs shall be taxed against him therein. Any supervisor who shall fail to use due diligence in keeping the highways of his district in good repair, under the regulations herein prescribed; or who shall fail to call out the hands of his district to work on the highways thereof the number of days herein prescribed, unless the tax assessed for such repair of such highway is sufficient; shall, for every such offense, forfeit the sum of ten dollars, to be recovered before any justice of the peace of the county, in the name of the township, by the trustee of such township; and all sums so recovered shall be for the benefit of the district for which such supervisor was elected or appointed, and such trustee shall bring suit within three days after receiving information of any such failure of duty by such supervisor.

Duties Continuous—Tools.

SEC. 115. Every supervisor shall hand over all books, papers and moneys, as well as all tools in his possession, to his successor in office when called for. Township trustees shall procure, with available road fund in their hands, such tools and implements as may be necessary for road districts.

Order of Work—Donation.

SEC. 116. In determining upon the amount and character of work which shall first be done on any highway, or part thereof, the township trustee shall take into consideration the importance of the highway to the traveling public, and its convenience to gravel, stone or other material to be used in its construction. Whenever the citizens interested in the permanent improvement of any highway of public importance, shall, by donation, properly ditch, drain, gravel, embank or otherwise improve any such highway, such trustee may contribute and perform work thereon equal in value to such donation, if he have the means in his hands to do so:

Provided, moreover, That every township trustee shall set aside not less than five per cent. of the road funds received by him each year as an emergency fund, to be used in keeping in repair all highways in his township along or on which United States rural free delivery mail routes have been or may hereafter be established and maintained; and it shall be the duty of every such trustee, and of every road supervisor, to give the preference to such highways in keeping the same in repair. Such highways shall be kept properly drained and free from all obstructions, including snowdrifts, so as to be at all times in good condition for ordinary travel.

Oaths.

SEC. 117. Each township [trustee] is empowered to administer oath in all cases touching the prosecution of the business of the township of which he is trustee.

Disbursements of Road Fund.

SEC. 118. All road money on hand or that may hereafter be paid to the county treasurer under the provisions of this or of any previous act, shall be paid to the proper township trustee, and be expended by him as other road funds are required by this act.

Supervisor's Report.

SEC. 119. Each supervisor of each road district shall, on or before the first day of December in each year, make a full and succinct report, under oath, of his proceedings, showing the names of all persons liable to perform, or who have performed, labor on the roads in his district; the amount of commutation money received, from whom received, and the amount of money received from any and all sources whatever, and how the same has been expended; and shall pay such balance to and file such report with the trustee of his township on that day.

Reports Audited.

SEC. 120. Such township trustee shall audit the reports referred to in the last section, and enforce the payment of any such balance, and compel such report by suit.

Responsibility for Tools.

SEC. 121. Every road supervisor shall be responsible for the care and safe-keeping of all the tools belonging to his road district, and on going out of office shall report the number and kind of tools in his hands to the trustee of his township, under oath; and such trustee shall charge each supervisor, on coming into office, with the whole amount of tools in his district, as shown by the statement of his predecessor in office. Such supervisor shall be liable

for any loss of, or damage to the tools belonging to his road district, occasioned by his neglect, to be recovered in the name of his township, upon complaint of the trustee of such township before any justice of the peace therein.

Roads on Division Lines.

SEC. 122. All roads running on township, county or road district lines are assigned for construction and repairs as follows: On roads running north and south, the north half is assigned to the township or townships and district or districts on the west side of such line, and the south half is assigned to the township or townships and district or districts on the east side of such lines; and on roads running east and west, the west half is assigned to the township or townships and district or districts on the south side of such line, and the east half to the township or townships and district or districts on the north side of such line. And the highways so assigned shall be under the control of and be kept in order by the township trustee of the township to which they are assigned. All roads running on lines dividing this state from other states shall be worked in conjunction with such other state, and shall be assigned for construction and repairs in the same manner as above provided in cases where roads run on township or county lines, as far as applicable.

Appeal to Circuit Court—Effect of Act.

SEC. 123. Except as otherwise provided in this act, any person aggrieved by any decision of the board of commissioners of any county, in any proceeding in relation to highways, may appeal therefrom within thirty days thereafter to the circuit court of such county, by filing a bond, with surety and penalty, to be approved by the auditor of such county, conditioned for the due prosecution of such appeal, and the payment of costs, if costs be adjudged against him; and in case proceedings shall be had in more than one county, the appeal shall be to the circuit court of the county in which the proceedings were first instituted, and the auditor of each county, on being notified of such appeal by the auditor of the county in which the appeal is taken, shall transmit to the clerk of the court to which the appeal is taken a transcript of all the proceedings in such county; and upon the determination of such appeal such clerk shall give notice thereof to the auditors of all the counties interested. Such appeal shall be tried de novo, and may be had as to any issue [tried], or that might have been tried, before the county board; but every report made to the board by viewers or reviewers or by any committee, body or officer, under the provisions of this act, shall be considered in evidence on such appeal. The court may make final determination of the cause so appealed, or may refer the case back to the county board or boards, with directions how to proceed. This act shall not have the effect to

release any penalty, forfeiture or liability incurred under any former statute, nor shall it affect any pending litigation or proceedings, but the same shall be concluded and be effective in all respects as if this act had not been passed.

CHAPTER 154.

AN ACT concerning the sale of bonds issued for the construction or improvement of highways, and declaring an emergency.

[S. 187. Approved March 8, 1913.]

Highways—Sale of Bonds—Publication.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That all bonds hereafter authorized by the order of the board of commissioners of any county of this state for the purpose of providing money for the construction or improvement of any highways under and pursuant to the provisions of any statute of this state, shall be sold by the county treasurer to the highest bidder therefor, but in no event at less than par, after giving notice of the sale of such bonds by publication in a newspaper of general circulation printed and published in the county where said bonds are sold, and in a like newspaper printed and published in the city of Indianapolis, Indiana, which publication shall be made not less than ten days prior to the date fixed for the sale of such bonds. And such county treasurer shall also give notice, if any, of the sale of said bonds as the board of commissioners of such county may in the ordinance authorizing the issue of such bonds provide: *Provided, however,* That this act shall not apply to the sale of bonds of less than $2,000 in the aggregate. (Acts 1913, p. 414.)

Emergency.

SEC. 2. Whereas, an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

CHAPTER 174.

AN ACT relating to public highways, defining the duties of boards of county commissioners to pay the preliminary expenses, fees and costs incurred and levying and collecting taxes to pay the same, and providing how costs shall be taxed and collected in certain cases.

[S. 89. Approved March 10, 1913.]

Highways—Petitions Dismissed—Payment of Preliminary Costs.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That whenever in the past or hereafter any petition

shall be filed with the board of commissioners of any county of Indiana for the improvement of any new, or established highway under any law of this state, which provides for the payment of the cost of such improvement by the levy of a tax upon a taxing district, and such improvement shall not be made on account of such board failing to obtain bids within the estimated cost thereof; or by reason of the indebtedness of the taxing district named in the petition, when added to the cost of the proposed improvement being in excess of the 4 per cent. limitation provided by law; where two or more petitions for the improvement of separate and several free gravel roads in a taxing district were all carried at an election, and only one or more of such roads can be improved, because the 4 per cent. limitation of the property of such taxable district will not permit the improvement of all of said roads, then in any of such cases, it shall be the duty of the board of commissioners of such county wherein such petition or petitions is pending, within forty days after the discovery of any of such causes, without further delay to pay the per diem and expense of the engineer and viewers, the per diem of the necessary helpers, cost of notices given, expenses of election, a reasonable attorney's fee for the petitioners' attorney, and all costs and expenses incurred up to that time from the general fund of the county, without an appropriation being made therefor, which sums so paid shall be repaid said county by the township or townships wherein said petitioners reside, in equal proportions by an annual levy of a tax by said board upon all the assessed property of said township or townships collected as other taxes are collected within not more than three years: *Provided,* That when any petition shall be dismissed for any of the following causes, viz: insufficiency; because of no public utility; defeated at the election, then upon such dismissal the costs shall be taxed by such board to the petitioners, and if not paid within thirty days after such dismissal, the county auditor shall issue to the sheriff a fee bill for the collection of such costs from the petitioners. (Acts 1913, p. 473.)

CHAPTER 191.

AN ACT providing for and limiting the expenses incident to the construction or improvement of free gravel and turnpike roads, under the provisions of the statutes of this state, which shall be allowed by the boards of commissioners of the counties into, through and along the dividing lines on which such roads shall be constructed, and paid out of the funds expressly provided by law, legalizing payments heretofore made of such expenses, repealing conflicting laws and declaring an emergency.

[S. 487. Became law without signature of governor.]

Highways—Payment of Preliminary Expenses.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the following expenses incident to the construction

or improvement of free gravel and turnpike roads under the various statutes of this state authorizing the construction of such roads, shall be allowed by the boards of commissioners of the counties in which such roads are built, and where built upon county lines, by the boards of commissioners of each county along whose dividing lines such roads shall be constructed, in equal proportions and paid out of the funds expressly provided by law either by taxation or assessment of lands for the construction of such roads, to wit: The engineer and viewers' per diem and expenses in viewing and locating such roads; the per diem of necessary helpers for such engineer and viewers in the location of such roads; the per diem and expenses of the engineer and the per diem of the superintendent in charge of the construction of such work; the cost of the giving of all notices required by law to be given in connection with the establishment, construction and completion of such roads; petitioners' reasonable attorney's fees; the expenses of all elections held in connection with the establishment of such roads; the cost of printing and selling bonds for the construction of the same; such damages as may be allowed by viewer on account of the construction of such roads; actual expenses of members of the board of commissioners necessarily incurred in and about the establishment; carrying on and completion of said works; thirty-five dollars ($35.00) in each proceeding to be paid to the auditor in addition to his regular salary by reason of added duties caused in the care of bonds, and the making of transcripts of proceedings of the boards of county commissioners in connection with the establishment and completion of all roads for the construction of which bonds are sold. (Acts 1913, p. 554.)

Limitation of Payments.

SEC. 2. No other incidental expenses connected with the construction or improvement of any free gravel road or turnpike constructed under the provisions of the statutes of this state shall be allowed by the county commissioners of any county in the state, either directly or indirectly, or paid out of the county funds of any county in this state, except as expressly enumerated in section one (1) of this act: *Provided, however,* That nothing herein contained shall be construed in any manner to apply to or affect the rights of any contractor for the construction of such roads.

Expenses Paid—Legalized.

SEC. 3. The payment heretofore made by the boards of commissioners of any and all counties in the State of Indiana of the expenses of the kind set out in and authorized by section one of this act are hereby legalized and made valid.

Repeal.

SEC. 4. All laws and parts of laws in conflict with this act are hereby repealed.

Emergency.

SEC. 5. Whereas, an emergency exists for the immediate taking effect of this act, it shall be in force from and after its passage.

CHAPTER 205.

AN ACT limiting the issuance of bonds, or other evidences of indebtedness payable by taxation, for the construction of free gravel or macadamized roads.

[H. 712. Approved March 14, 1913.]

Highways—Bonds—Fixing Limitation and Order of Issue.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be unlawful for any board of county commissioners in the State of Indiana, to issue bonds, or any other evidence of indebtedness payable by taxation, for the construction of free gravel or macadamized roads under any law in force in this state, when the total issue for that purpose, including bonds already issued and to be issued, is in excess of four (4) per centum of the total assessed valuation (after deducting all mortgage exemptions) of the property of the township or townships wherein such roads are located or to be located, and all bonds or obligations issued in violation of this act shall be void: *Provided,* That all such bonds shall be issued in the order in which the judgments establishing the respective roads are rendered: *and Provided, further,* That in determining the total issue of bonds as herein referred to the amount of tax collectible during the current year for the payment of road bonds then issued and outstanding and for which the tax levy has already been made shall be deducted from the aggregate total of such bonds, and the amount remaining shall be and constitute the total issue of such bonds as herein defined. (Acts 1913, p. 604.)

Emergency.

SEC. 2. Whereas, an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

CHAPTER 228.

AN ACT further regulating the manner of letting contracts for public work.

[S. 120. Approved March 14, 1913.]

Public Work—Bids—When Submitted—Open Meetings.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That hereafter all municipal bodies, boards or officers of any municipality, township or county in this state, authorized

by law to let contracts for public work shall have no authority to require any bidder to submit his bid at any time earlier than the open meeting at which it is to be received. All such meetings for receiving bids shall be open to which the public and all bidders shall be entitled to attend

Contracts—When Void.

SEC. 2. All contracts for public work by any of the boards or officers mentioned in section 1 of this act which are not let in conformity with the provisions of this act, shall be void.

Supplemental Act.

SEC. 3. This act shall be construed as supplemental to the laws now in force relating to the letting of contracts for public work, and shall not repeal or amend any of such laws except such as are contrary to the provisions hereof. (Acts 1913, p. 650.)

CHAPTER 156.

AN ACT relating to public highways, defining the duties of boards of county commissioners to pay the preliminary expenses, fees, and costs incurred and levying and collecting taxes to pay the same.

[S. 122. Approved March 4, 1911.]

Highways—Preliminary Expenses—How Paid.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That whenever, in the past, or hereafter, the qualified electors of any township or townships, including towns or cities in said township or townships have voted, or may vote for the improvement by grading, graveling, paving with stone or other paving, or macadamizing material, any road or roads in said township or townships under any law of this state, and the board of county commissioners of the county wherein said road or roads are situated has advertised according to law for bids for the construction of said road or roads and has received no bid within the estimated cost thereof for the construction of said road or roads, and two years have elapsed since the first advertisement for such bids, it shall be the duty of such board of commissioners, upon the expiration of said two years, to pay from the general funds of the county, without an appropriation being made therefor, the fees due the engineer, surveyor, viewers, election officers, cost of advertising, election supplies, and all fees, costs, and expenses incurred in such proceeding, which sums so paid shall be repaid said county by the township or townships wherein said election was held, in equal proportions by an annual levy of a tax by said board upon all the assessed property of said township or townships collectible as other taxes are collected within not more than three years. (Acts 1911, p. 414.)

CHAPTER 108.

AN ACT requiring general publicity on all public franchises before being acted upon by county commissioners, boards of public works, town and city councils, or any other county or incorporated town boards having power to grant franchises over, under and along any public highway, street or alley, repealing all laws in conflict therewith, and declaring an emergency.

[S. 28. Approved March 6, 1913. Acts 1913, p. 286.]

Public Franchises—Publicity.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That whenever the board of commissioners of any county, the board of public works of any city, the common council of any city not having a board of public works, or the board of trustees of any town desires to enter into franchise, grant or contract granting the use over, under or along any public highway, street or alley, to any person, persons, firm or corporation for personal or private gain or for the erection, grant or construction of any pole, poles, wire, track, pipe, cable or conduit, such board of commissioners, board of public works, common council or board of trustees shall determine the exact form in which such franchise, grant or contract is to be finally adopted, and thereupon such board of commissioners, board of public works, common council or board of trustees, as the case may be, shall fix the time at which said franchise, grant or contract will be finally considered, which day shall be not less than fifteen (15) days thereafter. At said time and place a public hearing shall be had, at which any taxpayer of such county, city or town, as the case may be, may appear and file protest against any or all of the provisions of said franchise, grant or contract. The person, persons, firm or corporation to whom said franchise, grant or contract is to be given, or with whom the same is to be entered into, shall, at its own expense, cause the full and complete text of said franchise, grant or contract to be published one time at least one week before such hearing, with the time and place of such hearing, in two daily newspapers of general circulation, to be indicated by said board or council, and printed in the English language in the county in which such franchise, grant or contract is to be made, if such county contains a city of the first, second or third class. In all other counties such contract shall be published in any newspaper of general circulation printed in said county, city or town, as the case may be. If there be no such newspaper or newspapers printed in such city, or town, then in any such newspaper printed in the county in which such city or town is located. Such person, persons, firm or corporation shall likewise post a copy of such franchise, grant or contract and notice in ten public places in such county, city or town, as the case may be.

Proof of Publication.

SEC. 2. All such boards of commissioners, boards of public works, common councils and boards of trustees above specified, shall require proof of publication in accordance with section 1 of this act before finally entering into or granting any such franchise, grant or contract.

Protests.

SEC. 3. Upon the day fixed in said notice, and from time to time thereafter, if said boards or council shall deem it necessary, said boards or council shall consider the protest, if any, filed by any such taxpayer, and any such taxpayer may appear at such meeting in person or by attorney, and present argument against any or all provisions of any such franchise, grant or contract.

Publication of Amendments.

SEC. 4. If after the publication required in section 1 of this act any amendments, changes or alterations are made or agreed upon to said franchise, grant or contract by said boards or council, and said franchise, grant or contract is altered, changed or amended in any way, then and in such event said boards or council, before finally entering into said franchise, grant or contract, shall cause the full and complete text of each section or sections, amended or altered, and a note of each change to be published in newspapers, as required in section 1 hereof; and until such publication is made said franchise, grant or contract shall not become effective, binding or operative. The publication therefor to be paid by the person, persons, firm or corporation receiving such franchise, grant or contract, unless the same shall be otherwise ordered by such board or council. Proof of such publication shall be made by such person, persons, firm or corporation and filed with such county, city or town.

Payment of Publication.

SEC. 5. The compensation which shall be paid for the printing and publishing of such franchise, grant or contract provided for in this act shall be for each advertisement per square of two hundred fifty m. [ems] set in the newspaper body type of the paper, one dollar.

Repeal.

SEC. 6. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

CHAPTER 180.

AN ACT to amend section 1 of the act entitled "An act to require all highways on which United States rural free delivery mail routes are established to be kept in repair and passable condition, providing penalties for the violation thereof," approved March 9, 1903, and declaring an emergency.

[S. 178. Acts 1907, p. 208. Approved March 9, 1907.]

Highways—Rural Free Delivery—Repair.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section 1 of the act entitled "An act to require all highways on which United States rural free delivery mail routes are established to be kept in repair and passable condition, providing penalties for the violation thereof," approved March 9, 1903, be and the same is hereby amended to read as follows, to wit: Section 1. That in addition to the duties now conferred on them by law in respect to the care of highways, it shall be the duty of the board of commissioners, township trustees, road superintendents and road supervisors to keep in repair and in passable condition all highways in their respective districts or jurisdictions along or on which United States rural free delivery mail routes have been or may hereafter be established and maintained, and the township trustees shall set aside at least five per cent. of the amount of road fund received by them each year as an emergency fund to be used in carrying out the provisions of this act. It shall be the duty of the above named officers in performing their duties in respect to highways to give preference to the highways along or over which such rural mail routes have been or may hereafter be established and maintained. It shall be the duty of such officers to see that such highways are properly drained, are kept free of all obstructions, including snowdrifts, and are at all times in condition to be safe and readily passable to ordinary travel. It shall be the duty of said officers, and of each of them, upon receiving notice of the defective or impassable condition of any of the highways so used by mail routes above defined at once to repair, or cause to be repaired, the said highway or highways. In making such repairs the board may repair bridges or culverts wherever necessary for the purposes of this act, regardless of the fact that there may be no appropriation therefor, and pay for the same out of any moneys in the county treasury not otherwise appropriated. If any member of any board of commissioners, any township trustee, road supervisor or superintendent shall fail to repair any such highway within his jurisdiction, or to cause the same to be done, for a period of five days after receiving notice of the defective condition thereof, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not over $2 for each day he shall have so failed after receiving such notice.

Emergency.

SEC. 2. An emergency existing, this act shall be in force from and after its passage.

NOTE.—The original of this act can be found in Acts 1903, p. 223. It consists only of one section. The general highway law of 1905, section 116, covered the same subject and impliedly repealed the act of 1903. Such being the case it is believed that the above statute as amended is void; for the reason that a repealed statute can not be amended.

CHAPTER 337.

AN ACT concerning the payment of damages to work under construction caused by the supreme court decision declaring the highway law unconstitutional.

[H. 485. Approved March 15, 1913.]

Highways—Supreme Court Decision—Damages—Levy.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That in any township or townships in which a highway was under construction at the time of the supreme court decision declaring the highway law unconstitutional so far as it relates to gravel roads by taxation, and where damage was done to such work before the rehearing of the case and final decision declaring the law unconstitutional and where such damage is shown to have been done by order or permission of the county or township road officer and through no fault of the contractor, the board of county commissioners are authorized to levy a special tax on the property of the township or townships in the manner as now provided by law for taxation to pay gravel road bonds and to pay to the contractor from the proceeds thereof the damages caused to such work. (Acts 1913, p. 913.)

CHAPTER 38.

AN ACT concerning the investment of funds by any life, fire, live stock and casualty or accident insurance company and bonding or surety company organized under the laws of the State of Indiana, and declaring an emergency.

[H. 47. Approved February 25, 1911.]

Insurance—Highway Bonds—Investments.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That any life insurance, fire insurance, live stock insurance, casualty or accident insurance, or bonding or surety company now or hereafter organized under the laws of the State of Indiana,

in addition to the investment of its funds as now provided by law, be and hereby is authorized and empowered to invest its funds in the bonds issued by any county of the State of Indiana for the improvement of highways.

Emergency.

SEC. 2. Whereas, an emergency exists for the immediate taking effect of this act, therefore the same shall be in full force and effect from and after its passage. (Acts 1911, p. 11.)

CHAPTER 230.

AN ACT concerning highways and declaring an emergency.

[S. 260. Approved March 6, 1911.]

Highways—Repair—Material.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That in any county in which free gravel, macadamized or other improved highways are maintained by the board of commissioners acting as a board of directors of such highways as now provided by law, may, as such commissioners, repair such highways either with stone or gravel or with materials like those of which the road so repaired was improved.

Repeal.

SEC. 2. All laws in conflict with the provisions of this act are hereby repealed.

Emergency.

SEC. 3. Whereas, an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage. (Acts 1911, p. 565.)

CHAPTER 256.

AN ACT to authorize the construction by boards of county commissioners of tunnels in lieu of bridges across navigable waters and public streets and highways.

[S. 290. Approved March 6, 1911.]

Highways—Tunnels.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That whenever in the judgment of the board of county commissioners of any county, it is necessary to bridge any highway

or public street across any navigable water, such board of county commissioners may, if in its judgment it deem it best, construct a tunnel underneath such navigable water, on such public street or public highway in lieu of such bridge.

Construction—Law Governing.

SEC. 2. In the event such board of county commissioners shall determine in favor of the construction of any such tunnel in lieu of a bridge, then the construction of such tunnel shall be done under all provisions of the laws now in force for the construction of bridges on public highways and public streets by boards of county commissioners, and shall be governed not only by the laws now in force relating thereto, but by all subsequent legislation thereon.

Act Construed.

SEC. 3. This act shall be construed as supplemental to all laws on the subject of the construction of bridges across waterways on public streets and highways by boards of county commissioners, and shall not be construed as repealing any law or laws upon said subject. (Acts 1911, p. 624.)

FORFEITURE OF FRANCHISE BY TOLL ROAD.

[Acts 1859, p. 170. Approved March 5, 1859. In force August 6, 1859.]

Effect on Judgment.

SEC. 6. Whenever any forfeiture of charter or incorporated rights shall be declared, under the provisions of this act, it shall be held to be a vacation of so much of said road as may be declared forfeited: *Provided,* That the grounds upon which such road was located was not a public highway prior to the location of such road; in which case the same shall be deemed a public highway, and be worked as all other highways.

TURNPIKE COMPANY ABANDONING ITS ROADWAY.

[Acts 1859, p. 172. Approved March 5, 1859. In force August 6, 1859.]

Company Vacating Roadbed.

SECTION 1. That corporations of any plank road, macadamized or gravel roads, may, by a vote of the stockholders, discontinue any part of the road by them made.

Vacated Road to Be Used and Worked.

SEC. 4. All such abandoned or neglected roads shall, immediately thereafter, be taken charge of and worked as highways or public roads, under such laws as may be in force at the time, for the care of highways.

TOLL ROADS WHEN THEIR CHARTERS HAVE EXPIRED.

[Acts 1885, p. 181. Approved and in force April 11, 1885.]

Become Free Roads—Repairing.

SECTION 1. Any turnpike or gravel road company organized under and pursuant to an act entitled, "An act to allow county commissioners to organize turnpike companies when three-fifths of the persons representing the real estate within prescribed limits petition for the same, and to levy a tax for its construction, and provide for the same to be free," approved March 8, 1865, and the acts amendatory and supplemental thereto, when the charter of any such turnpike or gravel road shall expire, the same shall become a free gravel road and a part of the free gravel road system of the state, and shall be kept in repair thereafter the same as other free gravel roads are kept in repair, and shall be subject to and governed by the same laws governing the repair and keeping in repair of free gravel roads: *Provided,* That such road shall be in good condition and repair when such charter shall expire or shall thereafter be put in good condition and repair, but such roads shall not be received and kept in repair as other free gravel roads, unless the same are in good repair and condition when the charter expires, or shall thereafter be put in good repair and condition, but if such road at any time after the expiration of its charter shall be put in good repair and condition, the same shall then become a part of such system of free gravel roads in the manner hereinafter prescribed by order of the board of commissioners.

Notice of Order.

SEC. 2. Upon the making of any such order, the board of commissioners shall give notice thereof by publication in a newspaper of general circulation published in the county, and by printed notices posted at three places along the route of said road, and two at the court-house door.

Appeal From Order.

SEC. 3. Any taxpayer of the county may appeal from such order to the circuit court at any time within sixty days by filing a proper appeal bond.

County Line Road.

SEC. 4. When any such road is located on a county line, the proceedings shall be had before a joint meeting of the boards of commissioners of the counties divided by the line upon which said road is located, to be held at the county seat nearest to said road and the record of proceedings shall be made in each of said counties, and an appeal may be taken by any person in either county entitled to appeal to the circuit court of the county where the joint meeting of the boards was held. And each county shall pay equally for keeping such road in repair.

Emergency.

SEC. 5. Whereas, an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

ABANDONED GRAVEL AND PLANK ROADS.

[Acts 1858, p. 31. Approved and in force December 23, 1858.]

County May Take Possession.

SECTION 1. It shall and may be lawful for the county commissioners of any county in this state, or the board doing county business therein, to take possession of and control all plank, gravel or macadamized roads within their respective counties, whenever the same shall have been abandoned and suffered to go out of repair by the corporation constructing the same.

Repairing.

SEC. 2. Said board shall have authority, and it shall be its duty, to annex said road for repair to contiguous and appropriate road districts, and require the supervisor thereof to keep the same in repair as other roads are maintained and repaired: *Provided, however,* That nothing in this act shall be so construed as to affect any plank, gravel and macadamized roads in any manner whatever, where the same has been leased or sold to any person or persons, or corporation, and has not been abandoned by any such person or corporation.

TURNPIKE COMPANIES IN THIS STATE TO CONNECT WITH TURNPIKE ROADS IN ADJOINING STATES.

[Acts 1883, p. 36. Approved and in force February 27, 1883.]

Connecting Lines.

SECTION 1. Whenever, in an adjoining state, a turnpike or gravel road shall have been constructed up to the state line of the State of Indiana, and leading into said state, but not connected with any turnpike therein, and whenever any turnpike corporation in this state is engaged in operating a turnpike within two miles of said termination, either under a general or special act of the general assembly of said state, it shall be lawful for such turnpike company to acquire, by purchase from the owners of land intermediate between the said turnpike in this state and the termination of said turnpike in said adjoining state, the necessary land or right of way for the construction of such a turnpike, to connect said turnpikes, and upon acquiring the same the said turnpike company is hereby authorized and empowered to construct and operate a turnpike road between the said turnpike operated by them and the termination of said turnpike in said adjoining state, and to collect therefor the same toll, in the same manner, and to operate said road, subject to the same laws, rules and regulations as those which control the operation of the turnpike so operated by said company in this state.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall take effect and be in force from and after its passage.

CHAPTER 138.

AN ACT to exempt from taxation all bonds hereafter issued for the purpose of raising funds to construct free gravel or macadamized roads, in any county in the State of Indiana.

[H. 289. Approved March 4, 1911.]

Taxation—Future Highway Bonds Exempt.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That all bonds hereafter authorized by any county or township in the State of Indiana, for the purpose of building, constructing and paying for the construction of any free gravel, macadamized or other improved roads, shall be exempt from taxation: *Provided,* Said bonds shall not bear a greater rate of interest than four and one-half (4½) per cent. interest per annum, payable semi-annually.

Emergency.

SEC. 2. Whereas, an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect after its passage. (Acts 1911, p. 337.)

CHAPTER 139.

AN ACT empowering boards of county commissioners of any county in the State of Indiana to recall and retire unsold bonds issued for the purpose of raising funds to construct free gravel or macadamized roads in such counties, and to issue other bonds in lieu thereof, and declaring an emergency.

[H. 301. Approved March 4, 1911.]

Highways—Bonds Unsold—Recall—New Issue.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* When any bonds issued in any county in the State of Indiana for the purpose of building, constructing and paying for the construction of any free gravel, macadamized or other improved roads in such county, have not been sold by the treasurer of the county within one year after the date of the issue thereof, for the reason that such treasurer has been unable to obtain a bid therefor, then the board of county commissioners of such county may order the recall and retirement of such bonds, and in lieu of such bonds may at any time within one year thereafter issue other bonds and place same in the hands of such treasurer, for sale, such other bonds to be in the same amount, denominations, and in all things similar to the bonds recalled and retired except that said bonds shall not bear a greater rate of interest than four and one-half per cent. (4½%).

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage. (Acts 1911, p. 337.)

RAILROAD MAY USE HIGHWAY.

[Acts 1875, p. 69. Approved and in force March 13, 1875.]

Use of Highway by Steam Railroad.

SECTION 1. When the owners of three-fourths of the real estate bordering on a county road which connects a city of more than forty thousand inhabitants with any suburban town situated in

the same county, have petitioned, or shall hereafter petition, the board of county commissioners of such county to grant a railroad company, duly organized under the laws of the state, the right of way along the line of any part of said county road for the purpose of connecting such city with such suburb by a line of railroad, said commissioners shall be, and are hereby, empowered to grant such right of way to such railroad company, subject to all the rights of adjoining proprietors who shall not sign such petition.

REPAIR OF ROADS CHANGED BY RAILROADS.

[Acts 1859, p. 201. Approved March 4, 1859. In force August 6, 1859.]

Supervisor to Repair Highway.

SECTION 1. Whenever any public highways within this state have been, or may hereafter be changed from their original bed, by the construction or running of any railroad, that supervisors within their respective districts shall have power, and it is hereby made their duty, to open and keep in repair any roads so changed, the same as if they remained where originally located.

CHAPTER 182.

AN ACT to provide for the better protection of travelers on the highway crossings of railroads and street railroads, interurban street railroads or suburban street railroads in this state, by separation of the grades thereof, and improvements of such crossings, and granting powers to the railroad commission of Indiana with reference thereto.

[S. 73. Approved March 11, 1913.]

Railroads—Highway Crossings.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the railroad commission of the State of Indiana is hereby authorized and directed to carefully investigate and examine all the highway crossings of railroads and of railroads and street railroads, interurban street railroads or suburban street railroads in this state and to make or cause to be made files and numbers of such highway crossings, so that such crossings may be known and designated by mile posts or otherwise, and referred to and considered from time to time as often as may be necessary to carry out the provisions of this act.

Railroad Commission—Duties.

SEC. 2. *Be it further enacted,* That it shall be the duty of the railroad commission of Indiana, to secure from the several com-

panies owning or operating railroads, street railroads, interurban street railroads or suburban street railroads throughout this state, detailed and specific information concerning the highway crossings along their lines, outside the corporate limits of cities and incorporated towns in this state, and for that purpose said commission shall prepare and submit to each of such companies blank forms indicating therein the various items of information concerning such highway crossings upon which said commission desires to be advised. It shall thereupon be the duty of each of such companies, within six months after the receipt of such blank forms by them respectively, to fill out the same with the complete information requested therein, and return to the railroad commission of Indiana, a separate blank form so filled out for each such highway crossings, accompanied by a photograph of each separate crossing so described. The railroad commission of Indiana shall then proceed to examine the conditions of each said highway crossing and ascertain which of the same should, under all the circumstances, be separated and to that end said commission is empowered to employ a civil engineer and such expert assistance as shall be necessary to make such investigation.

Surveys and Examinations.

SEC. 3. *Be it further enacted,* That said commission may require to be made ocular or instrumental surveys or reports and examinations as may be deemed expedient, and said commission shall carefully examine and consider the files, reports, and surveys of each of said highway crossings in this state, with reference to (1) separation of the grade, the purpose being to separate as rapidly as practicable, grade crossings in this state; (2) a better location and consolidation of the crossings, the purpose being to have all crossings at right angles, if possible.

Separation of Grades.

SEC. 4. *Be it further enacted,* That whenever said commission shall come to conclusion, whether on account of the topography of the ground at the crossings, or on account of the great number of travelers using any crossing of a highway and steam railroad, or for any reason deemed by said commission to be sufficient, that the grades of such crossing should be separated, and it shall be found to be practicable to do so, said commission shall serve with notice the railroad company or companies, and also serve with notice the board of commissioners of the county or counties in which such highway crossing is located. Said notice shall set out that said commission on the day named will consider the matter of separation of the grades at such crossing and said railroad commission of Indiana shall have jurisdiction of the parties and the subject matter in said proceedings and shall hear and determine the matter, and if satisfied that said crossing is dangerous to life and that safety and the

accommodation of the public requires that the grades thereof shall be separated, and that it is practicable to so separate said grades, said commission may so order and shall in said order prescribe the manner in which such separation shall be accomplished, and the cost of such separation shall be borne one-fourth by the county and counties in which such grade is separated and three-fourths by the railroad company or companies: *Provided,* That if any of the parties to such proceedings shall fail or refuse to obey the orders of the commission, the commission may proceed in any circuit or superior court of any one of the counties in which said highway crossing may be located, to enforce its orders: *Provided, also,* That the provisions of this act shall not apply to cities and incorporated towns.

Procedure.

SEC. 5. *Be it further enacted,* That if in any case of separation of a grade of a highway and a steam railroad under the provisions of this act the line of any street railroad, interurban street railroad or suburban street railroad company is so located as to require a separation of the grade of such line and the highway or is otherwise affected, the commission shall have power, as in case of steam railroads, to make such street railroad, interurban street railroad or suburban street railroad company a party to the proceedings for that purpose and serve them with notice as in the case of steam railroads, and by order prescribe, as herein provided, the character and extent of separation so required, and shall determine the manner and extent to which said company or companies may be affected and the cost of any such separation or of any change or alteration in the grade, road bed or tracks of any such company or companies so required shall be borne one-fourth by the county or counties in which such separation is required and three-fourths by such company. If in any case of a separation of grades of a railroad and a highway under the provisions of this act, the highway elevated or depressed shall be occupied by the railway of any street railroad, interurban street railroad or suburban street railroad company and it shall be necessary to add to the cost of such separation by reason of such use by such railway of such highway, such additional cost shall be charged to and enforced against such street railroad, interurban street railroad or suburban street railroad company as provided herein in case of steam railroads.

Construction of Grade.

SEC. 6. *Be it further enacted,* That in any case of grade separation under the provisions of this act no plan shall be adopted by the commission or order made requiring a grade of any railroad track that shall exceed the established maximum or ruling grade governing the operation of that division or part of the railroad on which the separation of grades is to be made without the consent of the company operating said railroad; nor requiring the construction of a heavier grade than two (2) per cent. on such street rail-

road, interurban street railroad or suburban street railroad, nor shall the track or tracks of the companies concerned be required to be placed below high water mark at the point where such change is made.

Relocation or Consolidation of Highway Crossings.

SEC. 7. *Be it further enacted,* That whenever the commission may deem it best to relocate or to consolidate highway crossings over railroads, street railroads, interurban street railroads or suburban street railroads in this state, it is hereby given jurisdiction for that purpose and may serve the board of county commissioners and the railroad companies, street railroad, interurban street railroad or suburban street railroad companies with notice, and shall proceed to hear and determine said matters, and thereupon make such orders as in the opinion of the commission are necessary to make the said relocation or consolidation effective, and such orders shall be binding upon the parties so served with the notice, and if not observed by them within the time prescribed in said orders, the commission shall proceed as provided in section four (4) to enforce such orders. Whenever it shall be desired to establish or extend a highway at grade over any railroad, street railroad, interurban street railroad or suburban street railroad in this state, it shall be necessary before so establishing or extending the same, that the petitioners therefor shall, by procedure to be prescribed by the railroad commission of Indiana, obtain the authority of said commission therefor. The grant or refusal of authority therefor by said commission shall be final and conclusive, except as hereinafter provided. Whenever it shall be desired by any railroad company, street railroad, interurban street railroad or suburban street railroad company to construct a new railroad at grade over any public highway or highways in this state, it shall be necessary for such company, by procedure to be prescribed by said commission, to obtain the authority of said commission therefor, but it shall not be necessary to obtain such authority when such new railroad, street railroad, interurban street railroad or suburban street railroad has secured its rights of way or is under construction. The grant or refusal of such authority shall be final and conclusive, except as hereinafter provided: *Provided,* That nothing herein shall prevent said commission from subsequently altering or rescinding any grant or refusal of authority to construct such highway or railway, if in its discretion such alteration should be made.

Number of Grade Crossings.

SEC. 8. *Be it further enacted,* That in determining the number of grade crossings, the separation of which may be required under the provisions of this act, the railroad companies, street railroad, interurban street railroad or suburban street railroad companies operating the lines of railway shall alone be considered, whether

such lines are operated under the ownership of such companies or by lease, operating contract or otherwise, the number of miles so operated shall be determined by the length of the occupied main track right of way, regardless of the number of tracks operated thereon.

Right of Appeal.

SEC. 9. *Be it further enacted,* That if any parties to the proceedings prescribed in this act, shall be dissatisfied with any final order of the commission, they may within thirty (30) days after the entry thereof begin an action against the commission in the circuit or superior court in any county in this state, into or through which the railroad, street railroad, interurban street railroad or suburban street railroad affected by such proceedings is operated, to suspend, set aside or modify any such order. Any party to any final judgment of any court in this state in any proceeding by or against said commission may prosecute an appeal therefrom to the supreme court of this state in the manner now provided by law in civil actions. In all actions in the courts of this state, authorized by this act, the rules of evidence shall be the same as in the trials of civil cases as now provided by law. All such courts as shall obtain jurisdiction of any such action in which the commission is a party, shall speedily hear and determine the same and to the end that the public interests shall not suffer: *Provided,* That no court shall issue any restraining order against the commission until reasonable notice of the application therefor has been given and a hearing has been had, and in case the commission is entitled in any cause to a restraining order, the same shall be issued by such courts without requiring bond or surety from such commission: *Provided, further,* That none of the provisions of this act shall affect pending litigation.

Consent of Railroad Commission to Construct.

SEC. 10. Hereafter no steam or interurban railroad shall construct a steam or interurban railroad across a public highway at grade outside of the limits of any city or town without the written consent of the railroad commission of the State of Indiana.

CHAPTER 224.

AN ACT to require steam and interurban railroad companies to install and maintain adequate highway crossing signs at the grade crossing of railroads and highways in this state.

[S. 207. Approved March 6, 1911, p. 543.]

Railroads—Highway Crossing Signs.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section 1 of an act entitled "An act to require team and interurban railroad companies to install and maintain

adequate highway crossing signs at the grade crossings of railroads and highways in this state," approved March 6, 1911, be amended to read as follows: Section 1. That from and after January 1, 1914, it shall be unlawful for any person, firm or corporation or the lessee or receiver of any person, firm or corporation, who shall own or operate any line of steam or interurban railroad in this state to run trains on the same without installing and maintaining at each grade crossing of its railroad with any public highway, highway crossing signs; to be placed at right angles with the highway, where possible, and the construction of the same and warning notice to be as follows: A substantial upright post, 13 feet or more in length, 3½ feet of which shall be in the ground; a board of wood or metal to be placed not closer to the ground than 7 feet on this post, at right angles with the post, on which shall appear the word "Danger" in red or black letters; two other boards to be placed diagonally across each other just above the board on which the word "Danger" is printed, and on one of the two boards the word "Railroad" shall appear, and on the other the word "Crossing." Where two railroads are crossed by the highway, parallel with each other, and not further than 100 feet distance from each other, a board shall be placed at the top of the diagonal boards on which shall appear the word "Two"; the boards on which the word "Danger" is written shall be at least 4 feet in length; the boards of which the words "Railroad Crossing" is written shall not be less than 5 feet in length, and where there are two railroads to be crossed the board with the word "Two" on it shall not be less than 2 feet in length; the size of all letters on the signs shall not be less than 6 inches high: *Provided,* That the crossing signs of carriers in this state heretofore approved by the railroad commission may remain and be taken as a compliance with the terms of this act: *and Provided, further,* That any other sign than the type described above may be constructed and used with the consent of the railroad commission of Indiana: *and Provided, further,* That this section shall not apply to crossings within cities or incorporated towns. (As amended. Acts 1913, p. 676.)

Penalty.

SEC. 2. Be is further enacted, That any person, firm or corporation, or the lessee or receiver of any person, firm or corporation, violating the provisions of section 1 of this act are guilty of a misdemeanor and on conviction shall be fined not less than $25.00 nor more than $200.00.

Repeal.

SEC. 3. Be it further enacted that all laws or parts of laws that are in conflict with this act are hereby repealed.

LOCATION THROUGH CEMETERY.

AN ACT to prevent the location or construction of public highways on real estate held, used or occupied as a cemetery or burial ground, and declaring an emergency.

[Acts 1903, p. 216. Approved and in force March 9, 1903.]

Location Through Cemetery.

SECTION 1. It shall hereafter be unlawful for the board of county commissioners of any county in this state to authorize the location or construction of any public highway on any real estate held, used or occupied as a cemetery or burial ground, or to authorize the location or construction of any highway that will, in any manner, encroach on any real estate held, used or occupied as a cemetery or burial ground.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in force from and after its passage.

DUTIES OF TOWNSHIP TRUSTEE.

AN ACT to provide for the more uniform mode of doing township business; prescribing the duties of certain officers in connection therewith; and to repeal all laws conflicting with this act.

[Acts 1859, p. 220. Approved and in force February 15, 1859.]

Powers and Duties in Relation to Highways.

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SEC 6. The duties of township trustee shall be—

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Third. To fill all vacancies that occur in the office of supervisor of highways in his township.

Fourth. To see to a proper application of all moneys belonging to the township, for road, school or other purposes, and to perform all the duties heretofore required of the township trustees, clerk and treasurer, under the supervisors, and school acts.

Changing, Vacating, or Opening Highway.

SEC. 19. The township trustee shall, in no case, have any power to change, vacate or open any highway in any township, in any

county; but such power shall be vested in the county commissioners of the county, under the same regulations as to the petition, notice, appointment of viewers, and assessment of damages, as is now provided by law in cases affecting more than one township.

CHAPTER 207.

AN ACT to provide for the erection and repair on bridges by township trustees on public highways, costing not to exceed one hundred ($100.00) dollars, out of township road funds.

[S. 375. Approved March 14, 1913, p. 609.]

Highways—Bridges Built or Repaired—Township Trustee—Road Fund.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That hereafter all bridges erected or repaired on public highways, when the cost of erecting or repairing shall not exceed one hundred ($100.00) dollars, shall be built by the township trustee and paid for out of the township road fund.

Repeal.

SEC. 2. All laws and parts of laws in conflict with this act are hereby repealed.

CHAPTER 257.

AN ACT providing for the acquisition of alleys, streets, public highways, or part or parts thereof running through, adjoining or adjacent to any penal, benevolent, correctional, educational, or other institution belonging to the State of Indiana, and matters incident thereto, and declaring an emergency.

[S. 408. Approved March 14, 1913, p. 698.]

State Institutions—Streets and Alleys—Condemnation.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That whenever the board of trustees, board of managers, or board of control of any penal, benevolent, correctional, educational, or other institution, belonging to the State of Indiana, shall deem it necessary or desirable for the welfare or convenience of such institution to acquire part or all of any street, alley or public highway, running through, abutting or adjacent to such institution and its lands, for its use, said institution by its board of trustees, board of managers or board of control, shall adopt a resolution to such effect, and duly spread the same upon its records, and shall direct the attorney-general of the State of Indiana to file

a petition in the Marion superior court, of Marion county, Indiana, in which petition the State of Indiana shall be plaintiff and the defendants to such petition shall be the owners of the real estate immediately abutting that part of the street, alley, or public highway which such institution desires to so acquire. The clerk of such court shall cause summons to be issued and served upon the defendants named in such petition as is now provided by law in other civil causes. If any such owners shall be nonresidents of the State of Indiana, or if the names of any owner shall be unknown, notice shall be given to them by such clerk by publication in some daily or weekly newspaper published in the county wherein it is sought to vacate and acquire such alley, street or public highway, as is now provided by law against nonresidents in cases to quiet title to real estate. Such attorney-general shall set forth in such petition a full and specific description of so much of the alley, street or public highway sought to be acquired by such institution and shall attach to such petition an accurate plat showing the same, with a description of the real estate owned by the State of Indiana, abutting and adjacent to the same, and praying for the condemnation and vacation of the same, so that the State of Indiana may acquire a full fee simple title to the same.

Damages Appraised.

SEC. 2. If any owner of real estate abutting immediately upon that part of the alley, street or public highway sought to be acquired by such institution shall be shown to be specially damaged by reason of the vacation and condemnation by the state of the alley, street or public highway described in such petition, whereupon it shall be the duty of the said Marion superior court to appoint three (3) disinterested freeholders resident of the county, or adjoining the county, wherein such alley, street or public highway is situated. It shall be the duty of such appraisers, within ten (10) days after their appointment, to proceed to view the alley, street or public highway described in such petition and determine in what sum, if any, such abutting owner will be damaged by reason of the acquirement by the State of Indiana for its use of the alley, street or public highway described in such petition, in fee simple, who shall, within ten (10) days thereafter. report, in writing, to such court, their report in the premises, such appraisers shall be duly sworn by some officer authorized to administer oaths, to faithfully and honestly appraise the damages as may be sustained by such complaining abutting property owners.

In estimating such damages such appraisers shall only consider any special damages which such abutting property owner will sustain on account of ingress and egress to and from his abutting property being destroyed, and his entire ownership interest therein, if the fee thereof is to be taken.

In fixing such damages claimed by owners of abutting property, a majority of such appraisers shall be sufficient to determine the same: *Provided,* If such court shall find that public necessity re-

quires that another street, alley or highway shall be laid out and established to take the place of the street, alley, highway or part thereof condemned, such court shall order and adjudge if practicable, that such institution before it shall be permitted to exclude the traveling public from using the street, alley or highway so condemned, it shall cause to be established on or near the land of such institution a like alley, street or highway, so as to provide an ample way for public travel. And upon the question of the necessity of establishing the alley, street or highway in place of the one so condemned, if the same be located in an incorporated city or town, such city or town shall be made a party defendant to such petition, who if it desire shall set forth by answer to the petition and furnish proof thereof showing the necessity of establishing the alley, street or highway, or part thereof in place of the one so condemned, but such city or town shall have no right to place in issue or be heard upon any other question in such proceeding and the judgment of said court thereon shall be conclusive and final. For the purpose of acquiring the land to establish the street, alley or highway in place of the one so condemned, such institution shall possess the rights and powers secured by an act of the general assembly of Indiana, entitled "An act concerning proceedings in the exercise of eminent domain," approved February 27, 1905, and all acts amendatory and supplemental thereto.

The damages awarded and costs against the state, and the cost of the material, land and work required to establish the street, alley or highway, or part thereof in the place of one so condemned, shall be paid out of the general fund of the state treasury, not otherwise appropriated and for such purpose the amount necessary is hereby appropriated: *Provided, further,* That inmates of the institution may be used in the work to establish, grade and improve such new street, alley or highway, as the superintendent of such institution may deem expedient.

Exception to Findings—Right of Appeal.

SEC. 3. Any party to such petition shall have the right, within ten (10) days after the filing of the report of such appraisers, to except, in writing, thereto, on the ground that the award of damages is either too small or too large, which exception shall be heard and tried by said court, whose decision thereon shall be conclusive and final. Should such excepting party defendant fail to increase the damages ten (10) per cent. more than the amount awarded by the appraisers, costs incurred from the time of filing such exception shall be adjudged against such exceptor. Should the State of Indiana except and fail to reduce the damages ten (10) per cent. less than the amount fixed by the appraisers, costs incurred from the time of filing such exceptions by the State of Indiana, shall be adjudged against such institution. No other question shall be considered or placed in issue, in such proceedings, except the damage claimed by any property owners abutting that part of the alley,

street or highway thus appropriated by the State of Indiana for the use and benefit of such institution. It shall be the duty of such court to adjudge that upon the payment of the damages so awarded within sixty (60) days from the time of the rendition of such judgment by the state, unto the clerk of said court, for the use and benefit to whom awarded, that such alley, street, public highway, or part or parts thereof, described in such petition is condemned and owned by the State of Indiana, in fee simple, for the use and benefit of such institution, which judgment shall be final and conclusive. The clerk shall certify a true copy of such judgment and plat to the recorder of the county wherein such alley, street or public highway is located, who shall record the same in the proper plat record.

Emergency.

SEC. 4. Whereas an emergency exists for the immediate taking effect of this act, therefore, the same shall be in full force and effect from and after its passage.

CHAPTER 329.

AN ACT concerning the maintenance and repair of township highways.

[H. 603. Approved March 15, 1913, p. 862.]

Highways—Townships—Supervisors Elected—Duties.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the supervisors of each and every township hereinafter provided for shall be elected at the general election to be held in November, 1914, to serve for a period of two years, and their successors shall be elected at each biennial election thereafter; and all such supervisors so elected shall hold office until their successors are appointed and qualified. In all townships in this state in which the township roads do not exceed ten miles in length, the township trustee shall be ex-officio road supervisor, and in no case shall there be to exceed four supervisors in any one township in this state. Each supervisor shall at the time of his election be a qualified voter in the township from which he is elected. A certificate of election shall be issued by the election board in which such election is had within three days thereafter to the person so elected. Such supervisor shall take an oath, before entering upon the discharge of his duties, for the faithful performance thereof, and give a bond with surety to be approved by the township trustee, and conditioned for the faithful discharge of his duties, in the sum of not less than two hundred ($200.00) dollars, which bond shall be deposited with the township trustee: *Provided,* That if any person elected supervisor shall be unable to give such bond, such inability shall be a defense to the collection of the forfeiture herein provided for, and the township trustee shall appoint some one else as super-

visor who shall serve until his successor is elected and qualified. Each road supervisor shall receive for his services actually performed the sum of twenty-five cents (25c) per hour, for not to exceed sixty (60) days except that in the event of the election of but one (1) supervisor for his township, the township may extend the time said supervisor shall work to not more than 120 days in any one year to be paid out of the township treasury. Before receiving such pay he shall file a sworn statement with the trustee of the township, which statement shall specify the days and roads upon which such services were performed. Upon failure or neglect to carry out or perform such duties as are imposed upon him, any supervisor shall be liable upon the bond hereinbefore provided for, or he may be removed from office by the township trustee. The township trustee shall fill all vacancies for the unexpired term, and shall notify such appointee of his appointment within three (3) days thereof. Such supervisors shall have charge of and work and keep in good repair the roads of their respective districts. They shall be subject to the control and direction of the township trustee, who shall see that their duties be faithfully performed, and who shall see that the roads of the townships are dragged whenever the weather conditions make such work advisable. He shall also call out all persons in such district liable to work on highways therein, superintend the labor thereon, see that the same is faithfully performed and report to the trustee all fines and commutation moneys due such district and the same shall be collected by such trustee, and whenever such trustee shall deem it necessary he may make any change in the road districts that may subserve the public interest. On dividing his township into road districts, or where any change is made therein, such trustee shall record a plat thereof in the highway record of his township, which shall show the roads and parts of roads belonging to each road district. Road districts shall not be held to include any part or parts of cities or incorporated towns that may be in the township in which such road districts are located.

Road Tax—Call by Supervisor.

SEC. 2. Any such supervisor shall call out all able-bodied male persons, except insane, idiotic, deaf and dumb, and blind persons within his jurisdiction and who are over the age of twenty-one (21) years, and under fifty (50) years of age, and not exempt from such labor, during not less than two nor more than four days of each year between the first day of April and the first day of December of each year. The supervisor shall require such persons to work on the highways of such district eight hours each day, and to furnish in such labor any tool that the supervisor may direct, if the demand therefor be a reasonable one. Any person able to perform an ordinary day's labor shall be deemed able-bodied, within the meaning of this act, although the person may be in some respects disabled: *Provided*, That no person who served in the army or

street or highway thus appropriated by the State of Indiana for the use and benefit of such institution. It shall be the duty of such court to adjudge that upon the payment of the damages so awarded within sixty (60) days from the time of the rendition of such judgment by the state, unto the clerk of said court, for the use and benefit to whom awarded, that such alley, street, public highway, or part or parts thereof, described in such petition is condemned and owned by the State of Indiana, in fee simple, for the use and benefit of such institution, which judgment shall be final and conclusive. The clerk shall certify a true copy of such judgment and plat to the recorder of the county wherein such alley, street or public highway is located, who shall record the same in the proper plat record.

Emergency.

SEC. 4. Whereas an emergency exists for the immediate taking effect of this act, therefore, the same shall be in full force and effect from and after its passage.

CHAPTER 329.

AN ACT concerning the maintenance and repair of township highways.

[H. 603. Approved March 15, 1913, p. 862.]

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navy of the United States during the war of the Union or the war with Spain or in the Philippine Islands, and who was honorably discharged therefrom, shall be required to labor on the public highways.

Owners of Teams.

SEC. 3. Such supervisor may require any person liable to work on such highways who is the owner of an ox, mule, or horse team, road scraper, road scoop, cart or wagon to furnish the same, and a driver, in such labor on such highways, and such person shall receive credit for two days labor for each days' service by such driver and team, and shall be given a receipt by such supervisor accordingly.

Issuing False Receipt—Penalty.

SEC. 4. Any road supervisor who shall issue and deliver to any person his receipt, giving credit for work done on highways in his district, when such person to whom, or for whom such receipt is issued, has not actually worked or caused work to be done for the full time that such receipt gives credit for at the rate of eight (8) hours for one day's work or has not paid the commutation money as provided by law, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than ten dollars ($10.00) nor more than fifty dollars ($50.00) for every (such) receipt so issued.

When Exempt from Road Work.

SEC. 5. On application to the township trustee any person liable to work on the highways may be exempt therefrom, if it be shown that he is unable from bodily infirmities to work thereon and that he is too poor to pay the commutation therefor; also any person who is a bona fide member of a legally organized fire company, located in any city or town in this state. And in such cases the township trustee shall execute to such person a certificate which shall, on being presented to the supervisor, entitle him to such exemption.

Cash Payment.

SEC. 6. Any person liable to work on the highways may be exempt therefrom by paying to the supervisor of his road district one dollar and fifty cents ($1.50) for each day he is liable to work thereon, and in that case he shall receive a receipt therefor from the supervisor. Such supervisor shall be authorized to employ some person or persons to work out such money, at the rate of one dollar and fifty cents ($1.50) per day, on the roads of his district; or failing to do so, he shall pay over all such money into the township treasury, for the benefit of the road district.

Failure to Pay or Work—Suit.

SEC. 7. Every supervisor, within ten days after warning out the hands liable to work in his district, shall notify the trustee who shall bring suit before any justice of the peace of the township in which such district is situated, and in the name of such township, against such persons as fail to work or pay over the commutation money therefor; and in such suit it shall be necessary to file only an account stating the number of days which each of such persons so failed to work or pay for, and charging one dollar and fifty cents ($1.50) per day each therefor; and in case of a recovery against any such defendant, the judgment shall be rendered for one dollar and fifty cents ($1.50) for every day the defendant so failed, and costs of suit, and no stay of execution or benefit of exemption, valuation or appraisement laws shall be allowed on such judgment. In case any such trustee shall fail to bring suit, after having been so notified by such supervisor, he shall forfeit and pay the sum of ten ($10.00) dollars, to be recovered in an action brought by the prosecuting attorney, before any justice of the peace of the township, in the name thereof; and all the money so recovered under the provisions of this section shall be received and expended under the direction of the township trustee by the proper supervisor in the improvement of the highways of his district: *Provided*, That any such trustee shall not be required to bring suit against any person from whom there is no probability of collecting, or who, at the time of working, shall be sick or otherwise unable to labor. If such person so temporarily sick or disabled be liable to pay commutation, he shall so pay, or the trustee shall sue therefor within sixty days. No person able to pay commutation shall be exempt on account of bodily disability.

Eight Hours Constitutes Day—Penalty for Default.

SEC. 8. Any person liable to perform labor on the public highways, when notified for such purpose, may appear in person or by an able-bodied substitute, and the person or substitute so appearing shall actually work eight hours each day, under penalties of twenty-five cents for every hour such person or substitute shall be in default, to be deducted by the supervisor from the price of the days labor.

Faithful Performance of Labor.

SEC. 9. If any such person or his substitute, after appearing shall remain idle or not work faithfully, or shall hinder others from working, such offender shall for every such offense, forfeit the sum of one dollar and fifty cents, to be collected from such person as other fines and forfeitures herein specified, and such person or his substitute shall be discharged by the supervisor without credit for any part of the work he may have done.

Employment of Additional Labor.

SEC. 10. Such supervisor, within ten days after the receipt of any money which he is not required to pay over to the township trustee, shall proceed to employ laborers to repair the highways in his district, but shall not pay more to such laborers than is customary in his district for similar services, and such supervisor shall superintend such repairs; but in no case shall such supervisor neglect to repair such highways, and if such labor shall be insufficient therefor, he shall call out the hands in his district to complete such repairing. If any person so called out shall refuse to work, he shall be liable to pay the commutation money therefor, and it shall be the duty of the trustee to bring suit for the same as provided in section seven (7) of this act.

Credit on Subsequent Labor.

SEC. 11. When such extra labor provided for in the next preceding section shall not require all the hands in the district, or an equal amount of labor from each, the supervisor may assess the same upon such hands as he may deem sufficient, and for the excess of work performed by any one over the average amount performed by all he shall give to each person performing such excess a certificate of the amount thereof, which shall be credited to the holder on account of any subsequent labor to be done by him on the highways in his district.

Material Confiscated—Damages—How Assessed and Paid.

SEC. 12. The supervisor, or any other person by his order, may enter upon any land adjoining or near to any highway in his district, and thereupon construct such ditches, drains and dams, and dig and remove such gravel, earth, sand or stone, or cut and remove such wood or trees as may be necessary for the proper construction, repair or preservation of such highways; and the supervisor, together with two disinterested persons, shall proceed at once to the locality and assess such damages in favor of the owner of the lands thereof, as in their judgment seems right and proper, and report the same under oath, within ten days after such assessment, to the trustee, having first given notice thereof to the party damaged and such trustee shall pay the damages assessed out of the township treasury. The oath to such appraisers may be administered by the supervisor, and the oath to the supervisor may be administered by the trustee. No person's land shall be entered when material can be found on the roadway, or convenient in the district on the roadways thereof, nor when drainage can be made on the roadway, at a cost not exceeding the cost and damages of entering upon private lands. In all cases contemplated in this section, demand shall first be made of the owner of the land before entering thereon or taking material. If he assent, he may point out the material and the location from which it is to be taken, and

if accessible and fit for the purpose intended, the material shall be there taken. If consent be refused by the owner, the supervisor shall notify such owner of his intention to so enter, for what purpose and for what time, and point out the land to be occupied or the material to be taken. In all assessments of damages the owner shall be notified and have leave to select one appraiser, and shall have notice of the time and place of the meeting of the appraisers, and privilege to offer evidence as to damages at the time of the assessment by the appraisers: *Provided, also,* That any person aggrieved may appeal from the action of the appraisers to any justice of the peace of the township, by giving notice in writing to the road supervisor. Such notice must be given within ten (10) days after final action by the appraisers, and such person shall give bond within thirty days after final action by the appraisers. Such bond shall be payable to the trustee, and shall be filed with and approved by the appraisers, and thereupon the papers shall be delivered to the justice of the peace; and such appeal shall be determined as other questions are determined in civil cases before justice of the peace.

Obstructed Highways—Abutting Land Owner Shall Remove.

SEC. 13. When a public highway, running through or bordering upon a tract of real estate, shall become obstructed, the owner or occupant of such land shall remove such obstruction as soon as the same shall come to his knowledge, for which the proper supervisor shall allow him a reasonable credit on his liability to work on the highways, unless the obstruction be caused by the act of such owner or occupant, in which case he will be required to remove the same without any credit.

Opening of New Highways.

SEC. 14. All trees standing or lying on the land over which any highway shall be laid out, which it shall be necessary to remove in the opening of such highway, shall belong to the owner of such land if he shall remove the same before the supervisor is required to open such highway; but all such trees and down timber, or other material found on such premises, may be taken and used by the proper supervisor for the construction or repair of the highway or of any bridge thereon.

Bridges and Culverts—Location and Repairs.

SEC. 15. If the township trustee of the township where any proposed bridge or culvert is to be located or repaired shall notify the board of commissioners of his county of the necessity of such location or repair, and if in the opinion of the commissioners the public convenience shall require the building or repairing thereof, they shall cause surveys and estimates to be made and provide for the erection of the same: *Provided,* That if the board of commissioners shall not deem such bridge or culvert of sufficient im-

portance to justify an appropriation from the county treasury for the building or repair thereof, the trustee of the townships in which is located such bridge or culvert may appropriate any part of the road fund in the township treasury for that purpose, if he shall deem it right and expedient to do so.

Rural Mail Routes—Given Preference—Emergency Fund.

SEC. 16. That in addition to the duties now conferred on them by law in respect to the care of highways, it shall be the duty of the board of commissioners, township trustees, road superintendents and road supervisors to keep in repair and in passable condition all highways in their respective districts or jurisdictions along or on which United States rural free delivery mail routes have been or may hereafter be established and maintained, and the township trustees shall set aside at least five per cent of the amount of road fund received by them each year as an emergency fund to be used in carrying out the provisions of this act. It shall be the duty of the above named officers in performing their duties in respect to highways to give preference to the highways along or over which such rural mail routes have been or may hereafter be established and maintained. It shall be the duty of such officers to see that such highways are properly drained, and kept free of all obstructions, including snow drifes, and are at all times in condition to be safe and readily passable to ordinary travel. It shall be the duty of said officers, and each of them, upon receiving notice of the defective or impassable condition of any of the highways so used by mail routes above defined at once repair, or cause to be repaired, the said highway or highways. In making such repairs the board may repair bridges or culverts wherever necessary for the purposes of this act, regardless of the fact that there may be no appropriation therefor, and pay for the same out of any moneys in the county treasury not otherwise appriated [appropriated]. If any member of any board of commissioners, any township trustee, road supervisor or superintendent shall fail to repair any such highway within his jurisdiction, or to cause the same to be done, for a period of five days after receiving notice of the defective condition thereof, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not over two dollars ($2.00) for each day he shall have so failed after receiving such notice.

Expenditure of Emergency Fund.

SEC. 17. The township trustee shall order the expenditure of the funds derived from the tax provided for in the last section in the improvement of the highways of his township under such regulations as he may deem expedient for the public interest, and for this purpose shall pay such sums as may be necessary, on the order of the supervisors of the township, for work done by them under his direction. Such order or orders drawn upon the trustee shall distinctly state the services performed by the person or persons to whom the order is given.

Road Tax—Annual Levy—May be Worked Out to Amount of $20.

SEC. 18. The township advisory board, on an estimate made by the township trustee, shall levy annually on or before the first Tuesday in June a road tax of not more than thirty cents on one hundred dollars ($100) to be levied according to the amount of real and personal property owned in such township, outside of the corporate cities and towns subject to taxation for road purposes, to be collected as other taxes are collected, except all road taxes are to be collected with the first yearly installment of taxes: *Provided*, That any person or corporation owing taxes so assessed on real estate shall be permitted to work out the same up to the amount of twenty dollars ($20.00) as nearly as practicable in the road district in which such real estate lies, and on taxes so assessed on personal property the person owing the same shall be permitted to work out the same up to the amount of twenty dollars ($20.00) in the district where the owner resides. Said tax to be worked out at the rate of one dollar and fifty-cents ($1.50) per day for each man. That the township trustee may, with the consent of the township advisory board, levy an additional tax, not to exceed ten cents on one hundred dollars valuation, to be paid into the county treasury, with the first installment of taxes and to be paid by the treasurer to the township trustee, to be expended for the construction and repair of bridges and culverts and for other road purposes. All taxes so assessed on real estate or personal property if not worked out under the provisions of this section shall be paid into the county treasury in cash, as other taxes are paid and shall be paid by the county treasurer to the township trustee, to be expended for the construction and repair of roads and bridges within his jurisdiction. It shall be the duty of the county auditor to procure and deliver each year, on or before the 10th of September to the proper township trustee, a list of all roads taxes assessed on each individual in his township, and the receipt of the supervisor of the proper district for the amount worked out by any tax payer, if not in excess of twenty dollars ($20.00) shall be taken by the treasurer of the county in payment of so much of said taxes, if presented during the year in which the labor has been performed or the year following upon the performance of said labor. No supervisor shall issue receipt for work performed by himself, except for his own road tax but in no case in excess of twenty dollars ($20.00) and no county treasurer shall receive the certificate of any supervisor except in payment of taxes on which the work shall be performed: *Provided, further,* That the road tax assessed on real estate and personal property shall be worked out on or before the first day of December of the year for which the levy was made. All credits allowed by county treasurers for road taxes worked out, upon settlement with the township trustee, to be properly distributed and charged, and road supervisors are required to make out and deliver to the township trustee on or before the first day of December of each year, a statement containing a true list of persons, of their

respective road districts having worked out their road tax, or any part thereof, during the year, together with the amount worked out by each person. And such supervisors shall likewise file with the township trustee, the receipts of all persons who are entitled to credit for road taxes worked out. And the township trustee shall, on or before the last day of December of each and every year, file with the county treasurer of the proper county all the receipts for road work, that the proper persons may be given credit therefor on the tax duplicate. When demanded by the party working out road tax, the supervisor shall issue to him a road tax receipt which shall be marked duplicate: *Provided,* That the provisions of this section relative to paying all road taxes in excess of twenty-dollars ($20.00) in cash shall be construed to apply to the current year and shall be in full force and effect from and after the first day of April, 1913.

Notice to be Given.

SEC. 19. The supervisor shall notify each person in his jurisdiction liable to work on the highways thereof of the time and place of working, either by verbal or written notice, and if such person shall fail or refuse to respond such supervisor shall issue a second written notice to such person, at least three (3) days prior to the time designated for such work and if upon the receipt of such second notice such person shall fail or refuse to respond he shall thereby forfeit all right to work out such road tax and shall be required to pay all his road tax in cash: *Provided,* That such supervisor shall, as nearly as practicable, warn out all persons liable to work out their land tax on any certain road of his district, at the same time, to the end that he may act as the superintendent or overseer of such work and may have enough men working to justify an overseer of such work.

Work May be Let to Lowest Bidder.

SEC. 20. Such trustee may let out the work contemplated in section nineteen (19) of this act to the lowest responsible bidder, and for this purpose he may cause notices to be posted up in three of the most public places in the township, that proposals will be received under such regulations as he may prescribe, at a time and place to be by him designated, for the improvement or repair of all the highways and bridges, or any part thereof, in such township; and in all such cases such trustee shall adopt such regulations as to the extent of the improvements or repairs, term of payments. superintendence of the work, and the time of commencement and completion thereof, as he may deem proper. Payments on such contracts, according to the terms thereof, shall be made by the trustee out of the road or bridge funds in his hands.

Penalty for Injury to Drains, or Obstruction of Highways.

SEC. 21. Any person who shall injure any dam, drain, embankment, ditch or other construction made for the protection of any highway or bridge, or who shall wilfully destroy any guide post, or deface any description or device thereon, or who shall unnecessarily, and to the hindrance of passengers, obstruct any highway or bridge, and who shall, when driving any vehicle, fail to pass to the right when meeting another vehicle, so as to allow it to pass without injury, for every such offense, shall forfeit the sum of five dollars, to be recovered by the trustee in the name of the township before a justice of the peace of the county; and for every day such obstruction is continued the same sum shall be recovered. In all cases such trustee, within three days after receiving information of any such offense, shall commence such suit, and the sum recovered thereon shall be used for the benefit of the highways of such township. In case of a recovery in any such action the justice of the peace shall tax, as costs, the sum of five dollars as attorney's fees for plaintiff's attorney.

Continuation of Suits.

SEC. 22. All such suits commenced by one trustee may be continued by his successor in office and no costs shall be taxed against him therein. Any supervisor who shall fail to use due diligence in keeping the highways of his district in good repair, under the regulations herein prescribed, or who shall fail to call out the hands of his district to work on the highways thereof the number of days herein prescribed, unless the tax assessed for such repair of such highway is sufficient, shall for every such offense, forfeit the sum of ten dollars ($10.00), to be recovered before any justice of the peace of the county, in the name of the township, by the trustee of such township; and all sums so recovered shall be for the benefit of the district for which such supervisor was elected or appointed, and such trustee shall bring suit within three (3) days after receiving information of any such failure of duty by such supervisor.

Records Turned Over to Successor.

SEC. 23. Every supervisor shall hand over all books, papers and moneys, as well as all tools in his possession, to his successor in office when called for. Township trustee shall procure, with available road fund in his hands, such tools and implements as may be necessary for road districts.

Determination of Improvements.

SEC. 24. In determining upon the amount and character of work which shall first be done on any highway, or part thereof, the township trustee shall take into consideration the importance of

the highway to the traveling public, and its convenience to gravel, stone or other material to be used in its construction. Whenever the citizens interested in the permanent improvement of any highway of public importance, shall, by donation, properly ditch, drain, gravel, embank or otherwise improve any such highway, such trustee may contribute and perform work thereon equal in value to such donation, if he have the means in his hands to do so: *Provided, moreover,* That every township trustee shall set aside not less than five per cent. of the road funds received by him each year as an emergency fund, to be used in keeping in repair all highways in his township along or on which United States rural free delivery mail routes have been or may hereafter be established and maintained; and it shall be the duty of every such trustee, and of every road supervisor, to give the preference to such highways in keeping the same in repair. Such highways shall be kept properly drained and free from all obstructions, including snow-drifts, so as to be at all times in good condition for ordinary travel.

Power to Administer Oaths.

SEC. 25. Each township trustee is empowered to administer oath in all cases touching the prosecution of the business of the township of which he is trustee.

County Treasurer—Road Funds Paid to Township Trustee.

SEC. 26. All road money on hand or that may hereafter be paid to the county treasurer under the provisions of this or of any previous act, shall be paid to the proper township trustee and be expended by him as other road funds are required by this act.

Annual Report of Supervisor.

SEC. 27. Each supervisor of each road district shall, on or before the first day of December in each year, make a full and succinct report, under oath, of his proceedings, showing the names of all persons liable to perform, or who have performed, labor on the roads in his district; the amount of commutation money received from any and all sources whatever and how the same has been expended; and shall pay such balance to and file such report with the trustee of his township on that day.

Auditing of Reports.

SEC. 28. Such township trustee shall audit the reports referred to in the last section and enforce the payment of any such balance and compel such report by suit.

Responsibility for Tools.

SEC. 29. Every road supervisor shall be responsible for the care and safe-keeping of all the tools belonging to his road district

and on going out of office shall report the number and kind of tools in his hands to the trustee of his township under oath; and such trustee shall charge each supervisor, on coming into office, with the whole amount of tools in his district, as shown by the statement of his predecessor in office. Such supervisor shall be liable for any loss of, or damage to the tools belonging to his road district, occasioned by his neglect, to be recovered in the name of his township, upon complaint of the trustee of such township before any justice of the peace therein.

District Line Highways—Assignment of Work.

SEC. 30. All roads running on township, county or road district lines are assigned for construction and repairs as follows: On roads running north and south, the north half is assigned to the township or townships and district or districts on the west side of such line, and the south half is assigned to the township or townships and district or districts on the east side of such lines; and on roads running east and west, the west half is assigned to the township or townships and district or districts on the south side of such line, and the east half of the township or townships and district or districts on the north side of such line, and the highways so assigned shall be under the control of and be kept in order by the township trustee of the township to which they are assigned. All roads running on lines dividing this state from other states shall be worked in conjunction with such other state and shall be assigned for construction and repairs in the same manner as above provided in cases where roads run on township or county lines, as far as applicable.

Penalties.

SEC. 31. Any township trustee or road supervisor who shall violate any provision of this act, or who shall accept any work knowing that the same is defective according to contract, or who shall give any receipt except for work actually done or material furnished shall be subject to a penalty of not less than ten dollars ($10.00) nor more than fifty dollars ($50.00), to be collected in a civil action and he shall be liable on his bond for any loss which the township may suffer from violation of this act.

Definition of "Township Road."

SEC. 32. The word township road as used in this act shall be construed to mean any road in any township in this state, the cost of maintenance and repair of which is paid wholly out of the proper township treasury and the oversight and superintendence of which is vested in the proper township trustee.

Repeal.

SEC. 33. All acts and parts of acts in conflict herewith are hereby repealed.

CHAPTER 330.

AN ACT concerning the maintenance and repair of free gravel or macadam roads.

[H. 518. Approved March 15, 1913, p. 877.]

Highways—County Superintendent—Appointed.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That in every county maintaining free gravel or macadam highways there shall be a county highway superintendent. The board of county commissioners shall at their January session in 1914 and bi-ennially thereafter, appoint the county highway superintendent who shall be a resident voter of the county and who shall hold his office for two (2) years and until his successor is appointed and qualified: *Provided,* That in counties having less than two hundred (200) miles of free gravel or macadam highway, the county surveyor may act as the county highway superintendent. Whenever such county shall be found to have more than two hundred (200) miles of such highways, the board of county commissioners shall, at their January session following thereafter, appoint a county highway superintendent. The county highway superintendent may be removed by the board of commissioners after a hearing for incompetency, malfeasance or neglect of duties. The county highway superintendent shall execute a bond to be approved by the board of county commissioners in the penal sum of five thousand dollars ($5,000.00) for the faithful performance of his duties. Any vacancies shall be filled by the board for the unexpired term. The county highway superintendent shall receive as his compensation the sum of five dollars ($5.00) per day for the time actually employed in the work as such superintendent: *Provided, however,* That in counties having fewer than four hundred (400) miles of county highways, the compensation shall be four dollars ($4.00) per day, which shall be paid out of the gravel road repair fund of the county. The board of county commissioners shall provide and furnish a suitable office for the county highway superintendent with county surveyor or otherwise.

General Supervision—Expenditures.

SEC. 2. Th county highway superintendent shall have general supervision of the maintenance and repair of all highways, bridges and culverts of the county which are maintained or repaired from the gravel road repair fund of the county but no expenditure of more than fifty dollars ($50.00) for the repair of a bridge or culvert shall be made without the approval of the board of county commissioners. Whenever an expenditure of more than one hundred dollars ($100.00) is necessary for any bridge or culvert, the same shall be expended as heretofore provided by law. The county highway superintendent shall have police power in the control of the free gravel or macadam roads of the county.

Standards for Maintenance.

SEC. 3. The county highway superintendent shall investigate and determine the method of highway maintenance best adapted to various highways of the county under his supervision and shall establish standards for the maintenance of bridges, culverts and free gravel or macadam roads, giving due regard to the topography, condition, character and volume of traffic, availability of road repair materials, drainage, and of the financial ability of the county to pay the cost of repairs. He shall annually, on or before the first day of September of each year, make a complete itemized estimate of the cost of maintenance of his office and an estimate of the cost of repair of highways, bridges and culverts to be repaired within the county, under his supervision during the next ensuing year, and shall file the same in the office of the auditor of the county for the use of the board of commissioners who shall levy a proper tax for the purpose of raising the necessary funds to pay the expense of such proposed highway repairs: *Provided, however,* That the levy, as fixed by the county commissioners in the year 1913, shall apply and constitute the fund to be used by said highway superintendent in the year 1914. The superintendent shall file an itemized monthly report of all work done by him with the board of county commissioners and shall also file with the board of county commissioners on the first Monday of January in each year a report of the work of his office and a full and complete itemized statement of all moneys expended under his supervision during the preceding year. He shall examine the reports and vouchers of all assistant superintendents under his charge and file the same with the county auditor. The county highway superintendent shall meet with the board of commissioners at their regular monthly session and advise with them on matters pertaining to the maintenance of roads under his supervision.

Assistant Superintendents—Mileage Apportioned.

SEC. 4. The county highway superintendent shall within sixty (60) days after his appointment divide the total mileage of the county highways in the county and appoint assistant superintendents so that the total number of such assistant superintendents shall not exceed four (4) to each one hundred (100) miles of road or fraction thereof, and he shall assign each assistant superintendent to the number of miles that in his judgment he is capable of caring for, taking into consideration the location, and nature of the roads, whether or not they are the main or heavy traveled ones and the amount of material required for their repair. The board of county commissioners shall have power to contract in the manner provided by law for the purchase of all road and bridge repair material, and for all tools and machinery necessary for the proper repair of said roads, as such county superintendent shall from time to time deem necessary. The county superintendent shall

call a meeting of all the assistant superintendents at least once each year to discuss all matters concerning the repair work of the county highways.

The assistant superintendent, provided for in this act, shall at all times be under the direction and supervision of the county highway superintendent and shall make all reports required by said superintendent. Each assistant superintendent shall file with the county highway superintendent on or before the twenty-second (22) day of each month an itemized statement of all work done by him and under his supervision, showing the names of parties who performed the work, dates upon which work was done, nature of work done, upon what road or roads and if new material is used, either by putting on gravel or stone or repairing bridges or culverts, said report shall show the cost of such material, and such report shall be sworn to before some person qualified to administer oaths. The report, when so made and approved, by the county highway superintendent, and filed by him with the county auditor shall be as a claim against the county and when allowed, shall be paid monthly from the gravel road repair fund of said county to said assistant superintendent in the manner provided by law. The assistant superintendents herein appointed shall give bond approved by the board of county commissioners for the faithful performance of their duties, in the penal sum of one thousand dollars ($1,000.00). The assistant superintendent shall have police power over the road or roads in his charge. If necessary he may employ teams and men to assist in the repair work on the roads under his charge for which he shall pay not to exceed the sum of thirty-five cents (35c) per hour for team and driver and twenty cents (20c) per hour for services of laborers for the time actually employed on the road: *Provided,* That in counties containing a city of the first or second class, the board of county commissioners and the county highway superintendent shall determine the rate of wages to be paid for labor and teams. It shall be the duty of the assistant superintendent to make a careful inspection of the roads under his charge at least once each month, noting all breaks or defects and he shall immediately repair the same or report to the county highway superintendent and ask for directions. He shall keep all side ditches open so that the road will be properly drained at all times. So far as possible he shall keep the roadbed free from ruts, chuck holes and depressions. When repair material is placed on roads the assistant superintendent shall so arrange the surface of the roadbed that the travel will go over it at once and not allow vehicles to cut up ruts and chuck holes in the side of the road or in side ditches. If ruts are made in fresh material they shall be dragged down so as to turn water and make the road surface smooth. As soon as practicable in the spring, the assistant superintendent shall go over the roads in his district, clean out all ditches, stop all washes over the roadbed, clean out all culverts and repair the same where necessary until the roads are in good condition as to drainage and otherwise put the road in good repair. He shall see that

the roadbed is kept free from boulders, sod, grass, refuse or other material injurious to the roadbed or to vehicles.

The assistant superintendent may be removed at any time by the county highway superintendent for incompetency, neglect of duty or disobedience to orders.

Compensation.

SEC. 5. For his services the assistant superintendent shall receive the sum of twenty-five cents (25c) per hour for the time actually employed when working without a team. When he may deem it necessary, he shall have the right to use a team and when so doing, he shall receive as compensation for the team, the sum of fifteen cents (15c) per hour, and it is further provided that whenever he may deem it necessary and when it is inconvenient to obtain other teams, he shall have the right to use a second team of his own, and driver for which team and driver he shall receive not to exceed thirty-five cents (35c) per hour for the time actually employed: *Provided,* That in counties containing a city of the first or second class, the board of county commissioners and the county superintendent shall determine the rate of wages to be paid to the assistant superintendent for the labor of himself or teams.

Distribution of Material—Map of Roads.

SEC. 6. Whenever highway repair material is not convenient to the highway, the county highway superintendent shall direct the assistant superintendent to place repair material along the roadside at convenient intervals for emergency repair work. The county highway superintendent of each county in this state having county highways shall, upon the taking effect of this act, make a map of all the highways in said county as provided for in this act, setting forth the length and character of each road and so far as practicable, the kind and volume of traffic over such road. In dividing the roads into districts the superintendent shall give each road a distinct and separate name or number and no two roads in the same district shall have the same name or number and as roads hereafter built become a part of the county highway system, he shall give to each a name or number as heretofore provided: *Provided, however,* That in naming or numbering these roads, if it shall be found by him practical and not conflicting he shall give to the road the name or number by which it is commonly known. The intention of this act is to maintain as nearly as possible a patrol system over the county highways, to the end that repairs may be made at all times of the year so that the highways may be kept in good condition.

Confiscation of Material—Damages—How Paid.

SEC. 7. When the superintendent or assistant superintendent shall file his verified petition before the board of commissioners of his county at any regular session thereof, setting forth that in his opinion the interests of any such free gravel roads or turnpikes

require an entry upon any land in such county to make drains or procure gravel, stone, timber or any other material necessary for the repair of such free gravel road or turnpike and giving a description of the land to be entered upon, together with the name of the owner, and the probable amount of drainage or material required, together with the probable cost of the same; such board after having satisfactory proof that due notice, in writing, of the presenting of such petition has been served upon such land owner or the occupant of such land for at least ten days before the presenting of such petition, shall thereupon appoint three disinterested freeholders of the county, who, after being duly sworn, shall proceed upon such land and hear evidence and view the premises, and make written report, under oath, to such board at its next regular session, showing the amount of damages such land owner will sustain by reason of the appropriation of such drainage or materials for such purpose; and thereupon such board shall allow such amount specified by such viewer's report and cause the auditor to issue his warrant for such sum to such landowner; and such board shall also cause the auditor to issue his warrant for the reasonable charge of such viewers in doing such work, which damages and expenses shall be paid by such county out of the gravel road repair fund, and thereupon such superintendent shall have the right to immediately enter upon such land to make such drainage and take and use such materials for such purpose. Such landowner if he deem such amount so allowed inadequate for the payment of his said damages, shall have the right of an appeal to the circuit court from such order allowing and assessing such damages, in like manner as other appeals are now allowed to be taken from the board of commissioners to the circuit court.

Levy for Maintenance.

SEC. 8. In any county in which free gravel, macadamized or other improved roads are maintained by the county as provided in this act, the board of county commissioners shall annually levy upon all taxable property of such county such sum as such commissioners shall deem necessary for the repair of such roads, not to exceed one cent upon each one hundred dollars of such taxable property for every ten miles of free gravel, macadamized or other improved road, completed in such county, the proceeds of such levy to constitute a gravel road fund in the county treasury to be paid out only upon the warrant of the county auditor issued upon an allowance duly made by the board of county commissioners upon claims legally filed with the auditor.

Repeal.

Sec. 11. (9.) Sections eighty-five (85), eighty-six (86), eighty-seven (87), eighty-eight (88), eighty-nine (89) and ninety of an act entitled "An act concerning highways," approved March 8, 1905, and all acts amendatory thereof and all other acts in conflict herewith are hereby repealed.

OFFENSES AGAINST HIGHWAYS.

AN ACT concerning public offenses.

[Acts 1905, p. 584. Approved March 10, 1905. In force April 15, 1905.]

Trees on Highway—Injury.

SEC. 416. Whoever shall wilfully, maliciously or mischievously, and without right, cut down or in any way injure any tree on the public highway, shall, on conviction, be fined not less than five dollars nor more than five hundred dollars.

Highway, Etc.—Obstructing.

SEC. 417. Whoever, in any manner, wrongfully obstructs any public highway, tow-path, canal, turnpike, plank or coal road, or injures any toll or other bridge, or toll gate, culvert, embankment or lock, or makes any breach in any canal, or injures any material used in the construction of such roads, canals or structures, shall, on conviction, be fined not more than five hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than three months.

Traction Engine—Using on Highway.

SEC. 418. It shall be the duty of any owner or person in charge of a traction or road engine, while using such engine on any public highway, or on any street or alley of any town or city, upon the approach of any horse, team or teams, to drive such engine to one side of the highway, street or alley, when practicable, and to stop such engine until such horse, team or teams have passed; and the whistle of such engine shall not be sounded while such horse, team or teams are passing. Any person violating any provision of this section shall be guilty of a misdemeanor, and, on conviction, shall be fined not less than five dollars nor more than fifty dollars.

Heavy Hauling.

SEC. 419. It shall be unlawful for any person to haul over any turnpike, macadam, or gravel road (the term "gravel road" to include any road graded and graveled with not less than one yard of gravel to eight feet in width and nine feet in length of such road) at any time when the road is thawing through or by reason of wet weather is in condition to be cut up and injured by heavy hauling, a load on any vehicle with tires of less than three inches in width, the combined weight of which load and vehicle, including the driver, shall be more than twenty-five hundred pounds; or on any vehicle with tires of three inches and less than four inches in width,

the combined weight of which load, vehicle and driver, shall be more than three thousand pounds; or on any vehicle with tires of four inches and less than five inches in width, the combined weight of which load, vehicle and driver, shall be more than thirty-five hundred pounds; or on any vehicle with tires five inches or over in width, the combined weight of which load, vehicle and driver, shall be more than thirty-eight hundred pounds. Any person violating any provision of this section shall, on conviction, be fined not less than five dollars nor more than fifty dollars for each load so hauled: *Provided,* That any road supervisor or gravel road superintendent shall have police power to arrest upon sight any person who is seen violating or by warrant any person who has violated, any of the provisions of this section within the county or township for which such road supervisor or gravel road superintendent is elected or appointed, and that, on conviction of the defendant in such cause, there shall be assessed by the court trying the same a fee of two dollars in each case, to be paid to the person making such arrest. (As amended. Acts 1907, p. 445.)

Dams or Drains—Injury.

SEC. 422. Whoever injures any dam, drain, embankment, ditch or other construction made in pursuance of law, or made for the protection of any highway, railroad or bridge, or wilfully destroys or throws down any milepost, guide post, or guide board, or alters or effaces any inscription or device thereon, shall, on conviction, be fined not exceeding fifty dollars, to which may be added imprisonment in the county jail not exceeding ten days.

Neglect of Roads.

SEC. 529. If any person [who] has the official supervision of roads in any road district, fail to keep the ways and bridges in his road district in as good repair as the available labor or other means of such district will enable him to do, or fail to discharge any other duty required of him by law, he shall, on conviction, be fined not less than five dollars nor more than one hundred dollars.

Dead Animals.

SEC. 537. Whoever puts the carcass of any dead animal, or the offal of any slaughter-house or butcher's establishment, packing-house or fish-house, or any spoiled meat or spoiled fish, or any putrid animal substance, or the contents of any privy vault, upon or into any river, pond, canal, lake, public ground, market place, common, field, meadow, lot, road, street or alley, and whoever, being the owner or occupant of any such place, knowingly permits any such thing to remain therein to the annoyance or injury of any of the citizens of this state, or neglects or refuses to remove or abate the nuisance occasioned thereby, within twenty-four hours after knowledge of the existence of such nuisance upon any of the

above described premises owned or occupied by him, or, after notice thereof, in writing, from any health officer of the city or county, or the trustee of the township in which such nuisance exists, shall, on conviction, be fined not less than one dollar nor more than one hundred dollars.

Befouling Water.

SEC. 553. Whoever maliciously or mischievously puts any dead animal, carcass or part thereof, or any other putrid, nauseous, noisome or offensive substance, into, or in any manner befouls, any well, cistern, spring, brook, canal or stream of running water, or any reservoir of water works, of which any use is, or may be made for domestic purposes, shall, on conviction, be fined not less than five dollars nor more than one hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than sixty days.

Highway—Obstructing.

SEC. 654. Whoever sets any stone or other monument in any public road or highway, in order to mark a section corner, or any division of lands, in such manner that the same projects above the surface of the ground, shall, on conviction, be fined not less than five dollars nor more than twenty-five dollars.

Highway—Rubbish.

SEC. 655. Whoever puts, throws, dumps or leaves any tin can, old iron, brush, boxes, tools, machinery, vehicles, rubbish, brick, wood, logs, glass, glassware, glass bottles, glass jars, broken glass, broken glassware, or debris of any kind or character whatsoever in, upon or within the limits of any public highway, except by direction of the township trustee, superintendent or board of county commissioners shall, on conviction, be fined in any sum not exceeding fifty dollars. (As amended. Acts 1907, p. 239.)

Highways—Racing.

SEC. 659. Whoever knowingly suffers his horse, mare or gelding to be run in a horse-race, along any public highway in this state, and whoever acts as a rider in any such race, shall, on conviction, be fined not less than five dollars nor more than fifty dollars.

Running Horses in City or Town.

SEC. 660. Whoever runs horses, mares or geldings or shoots at a mark within the limits of any city, town or village, or along or across any street thereof, shall, on conviction, be fined not more than three dollars.

Hog, Carcass—Transporting.

SEC. 592½. Whoever hauls, moves or transports upon any public highway the carcass, or any part thereof, of any hog that shall have come to its death from disease; or whoever shall so haul, move or transport upon any such highway any hog while such animal is afflicted with disease shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars, or may be imprisoned in the county jail not exceeding six months, or may be punished by both such fine and imprisonment. The hauling, moving or transporting of any such hog, carcass or part thereof, too, or by the owner or employe of any rendering or desiccating establishment, shall be prima facie a violation of this section: *Provided, however,* That the provisions of this section shall not apply to the streets, alleys or public highways of any incorporated town or city.

Ferriage—Toll—Illegal Charge.

SEC. 662. If any ferryman, ferry owner, ferry keeper, or keeper of a toll bridge, or any person in his employment, shall demand or receive any greater fee on account of ferriage or toll, than is or may be fixed by law, or ordinance of any city or town, or by the proper board doing county business, as the rates of ferriage or toll to be received by such person, or shall fail to cause the bridge or banks of the stream over or upon which such ferry or bridge may be situated, to be kept in good condition for the passage of loaded wagons, or shall fail to give due and proper attendance to such ferry or bridge, according to the laws, ordinances or orders in force for the regulation of ferries or bridges, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars, or imprisoned in the county jail not less than ten days nor more than one month.

Highway—Obstructing With Cars.

SEC. 666. Whoever, being a conductor or other person having charge of, or running a railroad train, carrying or used for carrying freight, permits or suffers the same or any car or locomotive engine composing the same to remain standing across any public highway, street, alley, or farm crossing, or who, whenever it becomes necessary to stop such train across any public highway, street, alley or farm crossing fails or neglects to leave a space of sixty feet across such public highway, street, alley or farm crossing shall be fined not more than twenty dollars nor less than three dollars.

Signals for Crossings.

SEC. 673. Whoever, having charge of a locomotive engine, or interurban electric car, fails or neglects when such engine or car is approaching any road-crossing to sound the whistle, or, if not

equipped with whistle, the gong, at a distance of not more than one hundred nor less than eighty rods from such crossing, shall, on conviction, be fined not less than ten dollars nor more than fifty dollars; and if any person is injured or killed by reason of such failure or neglect, the person so causing such injuries shall, on conviction, be imprisoned in the state prison not less than two years nor more than fourteen years; but nothing contained in this section or the preceding seven sections shall be so construed as to interfere with any ordinance or by-law that has been or may be passed by any city or town regulating the management or running of engines or trains within such city or town.

Highways—Obstruction—Proof.

SEC. 248. In any prosecution for obstructing a highway, or for neglecting to keep a highway in good repair, it shall be sufficient to prove that it is used and worked as such.

Male Prisoners—Jail—Workhouse—Labor.

SEC. 304. All able-bodied male prisoners, sentenced to any county jail, or workhouse, while held for punishment, or the non-payment of fines or costs, whether the judgment embraces also imprisonment or is for a fine and costs only, may be put at hard labor upon the public wharves, streets, alleys, or other thoroughfares or public grounds in any city or town in the county where convicted, or upon any public road or highway therein, or upon any other public work, under such rules and regulations as the board of commissioners shall prescribe; and the sheriff or custodian of such prisoners shall obey all such rules and regulations.

Guards.

SEC. 305. The expense incurred in guarding the prisoners while at work outside the limits of the jail or workhouse shall be paid out of the county treasury on the order of the board of commissioners of such county. The guard shall be appointed by the sheriff, and vested with all the powers of a bailiff or deputy sheriff, and shall be, if in any incorporated town, the marshal thereof, and if in any city, the street commissioner thereof, so far as practicable; and such guard shall be paid therefor out of the county treasury such sum as such county board may fix and deem just.

Corporations Punishable.

SEC. 340. Corporations may be prosecuted, by indictment or affidavit, for erecting, continuing or maintaining a public nuisance, or for obstructing a public highway or navigable stream.

AN ACT concerning friction locks on wagons, repealing all laws in conflict, and declaring an emergency.

[S. 86. Acts 1907, p. 68. Approved February 25, 1907.]

Highways—Friction Locks on Wagons.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the board of county commissioners may by order require every person or persons hauling loads with wagons on the public highways, turnpikes, gravel or macadamized roads, to have a friction lock on the wagon, so as not to cause a dead lock of the wheel when necessary to lock same.

Misdemeanor—Penalty.

SEC. 2. Whoever violates section one of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not to exceed twenty dollars for each and every offense.

Repeal.

SEC. 3. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Emergency.

SEC. 4. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

FREE GRAVEL ROADS—LAW OF 1901.

AN ACT concerning the location and construction of free gravel, stone or macadamized roads; providing for raising funds to pay for the same and for their maintenance; and providing for the repeal of other acts touching the same subject matter, and declaring an emergency.

[S. 134. Acts 1901, p. 449. Approved March 11, 1901.]

Question of Building Roads Submitted to Election.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the county commissioners of any county in the State of Indiana when petitioned therefor by fifty (50) freeholders, voters of any township or townships contiguous to each other, including therein any incorporated town or city of less than thirty thousand (30,000) inhabitants in such county where such road or

roads are to be improved by grading, graveling, paving with stone or other paving or macadamizing material shall submit to the voters in said township or townships, towns or cities in such township or townships, at any regular election or at any special election which may be called by the board of county commissioners by advertising the same for three consecutive weeks (21 days) in a weekly newspaper of general circulation published in said county, if there be any, and by posting up written or printed notices of said election, for twenty-one days prior to the day of such election (which posted notices shall be sufficient in counties where no such newspaper is published) in each voting precinct in said township or townships, town or city, the question of building such road or roads in such township or townships in such county. And which said notice for said election shall be issued and signed by the board of commissioners and attested by the county auditor. And the notices to be posted shall be posted up by the sheriff, and the sheriff shall make and file with the auditor his verified proof of the time and places he posted up said notices. At such election there shall be printed on the ballots,

YES.	Building of road, Yes.
NO.	Building of road, No.

Each voter desiring to vote for the building of such road or roads shall mark a cross with a blue pencil in the square enclosing the word "Yes" and each voter desiring to vote against the building of such road or roads shall mark a cross with a blue pencil in the square enclosing the word "No."

The county auditor, with the assistance of two election commissioners, one known to be in favor of the building of such road or roads and one against such construction, both to be appointed by the board of commissioners of such county, shall prepare and distribute the ballots. The vote on said question shall be certified by the election inspector of said election to the board of county commissioners of the county on the first Thursday following the day of such election. And if at such election a majority of those voting on said question are in favor of building such road or roads, the commissioners shall at once proceed to the construction of the same, but not otherwise: *Provided,* That after such petition shall have been filed by the fifty (50) freehold voters as aforesaid, and before the election on such question shall be advertised, it shall be the duty of such board of commissioners to appoint a surveyor or engineer, or both, if necessary, of such county, if such there be in such county, if not, any that can be procured elsewhere in the state, and two (2) disinterested freeholders of the county as viewers to locate and view such proposed road or roads and determine the width of the same, make a profile of the grade, determine the quality and depth of gravel, stone or other material to be used, and make an estimate of the cost of construction of said road or roads, including bridges, culverts, drainage and all other things necessary for its

or their completion: *And provided, further,* That such viewers shall not be required to assess damages to any person or persons except minors, idiots or lunatics, in consequence of any appropriation of any private property for the making of said improvement, unless the owner or owners thereof or their agents shall have filed a written application with the viewers, giving an accurate description of the premises on which damages are claimed by them, within ten (10) days after the completion and filing with the auditor the survey of said road or roads by the said engineer and viewers. And said report shall not be published until after ten (10) days from the time of filing the same as aforesaid nor until all applications for the assessment of damages have been fully settled as provided herein: *And provided, further,* That all applications for damages shall be barred unless they are presented as above specified: *Provided, further,* That any person or persons feeling aggrieved by the assessment of damages as aforesaid made, may demand of the commissioners to have the same assessed by jury, which jury shall be composed of five (5) disinterested citizens, two (2) of whom shall be chosen by the commissioners, and two (2) by the claimant, and the fifth by the four thus appointed, who, after being duly sworn for the faithful discharge of their duties, shall examine the premises and determine the question in dispute, and their decision shall be final: *Provided, further,* That if the amount of damages awarded by this jury is not twenty (20) per cent. greater than the amount assessed by the viewers, the claimant shall pay all costs made by said jury. And the members of said jury shall be entitled to two dollars per day, each, for their services. The said viewers and jury shall, at the next term, whether regular or special, of the commissioners' court report their proceedings as to location, length, plans, plats and profiles, together with an estimate cost of said road or roads, including all damages assessed, which report, excepting the plats and profiles, shall be published in full in some weekly newspaper of general circulation, published in such county for three consecutive weeks (21 days) preceding such election, and written or printed copies of said report, excepting the plats and profiles, shall be posted in each of the voting precincts of said township or townships by the sheriff, and he shall make verified proof of the time and places of such posting and file the same with the auditor, and if there be no newspaper published in said county, then the posted notices shall be sufficient. And it shall be the duty of the board of commissioners to submit the question to the voters as above provided: *Provided further,* That the petition of said freeholders aforesaid shall clearly and definitely describe the beginning and terminus of each road or roads, giving the common name and general direction of all roads, together with their measured or estimated distance. If any part of the road or roads is to be new road or roads, they shall be described with such definiteness as will enable any practical land surveyor to locate them: *Provided, further,* That in case the election fails to carry in favor of such improvement the petitioner shall pay all costs occasioned by such election, but if the election shall

carry in favor of the improvement, the costs of such election and all expenses incurred prior to the letting of the contract, shall be included as a part of the expense of construction of the road or roads, and be paid for by the entire property of the township or district: *Provided, further,* That in any township in this state in which there is not to exceed seventy-five freehold voters, then upon the petition of not less than one-half of the freehold voters of any such township to the board of county commissioners for the improvement of any road or roads, as required by fifty freehold voters, as in this act provided, then this act shall apply in all such cases and the board of county commissioners shall proceed under such petition and carry out the provisions of this act the same as if upon the petition of fifty freehold voters, as in this act provided.

NOTE.—An act of March 9, 1901 (Acts 1901, p. 354), is omitted, because it applies only to Howard county.

This act is evidently not repealed by the general highway law of 1905. This view is strengthened by the language of the repealing section of that act taken in connection with amendment of section 1 of the act immediately followed this act or statute.

More Than One Road—City or Town.

SEC. 2. If the said petitioners desire to have improved more than one road or part of roads which are disconnected, it shall be lawful for them to include the description of all of said roads or parts of roads in one and the same petition, but each of said roads and parts of said roads disconnected shall be voted upon separately. But all roads and parts of roads described in such petition contiguous to and connecting with each other may be voted upon as a unit or separately as the petitioners may ask in their petition. If two or more petitions are pending at the same time they shall be voted upon at the same election. The ballots for each petition shall clearly designate the road or roads for which the voter intends to vote. Where any road or roads to be improved are in the corporate limits of or extend through any city or incorporated town, the board of commissioners must before publishing the report of the engineer and viewers, obtain of the common council of such city or board of trustees of such town, their consent to said improvement in such city or town, and said consent shall be shown by a certified copy of the record of the meeting and action of such common council or board of trustees, consenting that said improvement be made: *Provided, further,* That upon completion and acceptance of said road in or through said city or town, the common council of such city or the board of trustees of such town shall take charge of that part of said road in said city or town, and maintain the same.

Advertising for Bids.

SEC. 3. It shall be the duty of the commissioners, as soon as the election returns have been made by the election inspectors in favor of such road or roads, and all claims filed for damages have been settled as hereinbefore in this act provided, to advertise in at least one daily newspaper of general circulation throughout the state, and published at Indianapolis, for at least one insertion, and by advertising in a weekly newspaper published in the county for three consecutive weeks (21 days), and by posting notices for twenty-one days prior to the day of election, at the principal towns or cities in the several townships of the county, asking for bids for the construction of such road or roads. Said notices to be posted up by the sheriff, and the sheriff shall make a verified return to the auditor showing the time and places he so posted said notices. And such bids may be received at a regular or called session of said board of commissioners. And said board shall let the same to the lowest responsible bidder or bidders, but no contract shall be let for a bid higher than the estimates made by the viewers.

Bidders File Bond.

SEC. 4. Such bidder or bidders shall file with their bids, respectively, a good bond, signed with sufficient freehold sureties, residents of the State of Indiana, or a surety company bond, such bond not to exceed the estimate cost of construction of said road or roads, and to be approved by the county commissioners, for the faithful performance of the work, such bond being made payable to the State of Indiana, and for the benefits of the county, and any persons who may have a right to recover any moneys thereon, and the contract made with such successful bidder or bidders shall specify the time and manner of construction as set forth in the plans, specifications and profiles, as are set forth in the report of the viewers, and also the time when such work may be completed, and the principal and sureties upon such bond shall be liable to any and all persons for the persons performing labor and furnishing material in making said improvement, whether such work and labor or material was done and furnished by the contractor, sub-contractor, or agent of the contractor or sub-contractor, or any of them, including board furnished for the laborers thereon, during the construction of said improvement. (As amended. Acts 1903, p. 263.)

Compensation of Employees.

SEC. 5. The compensation of persons employed under this act shall be, as to the two viewers, chain-carriers, rodman and one marker, not to exceed two dollars per day and actual expenses for time employed, and the surveyor or engineer so employed shall not exceed three dollars and fifty cents for each day of time employed in survey and making profile and specifications, and actual expenses

while so employed. All such expenses to be paid out of the funds provided for the construction of such road or roads as in this act provided.

Bonds to Build Roads.

SEC. 6. For the purpose of raising money to pay for such construction the board of commissioners shall issue the bonds of the county, not to exceed in amount the contract price and all expenses incurred prior to the letting of the contract, in denominations not less than fifty (50) dollars each, in forty (40) equal series, the first series payable in six months, the second series in one year, the third series in one year and six months, the fourth series in two years, the fifth series in two years and six months, the sixth series in three years, the seventh series in three years and six months, the eighth series in four years, the ninth series in four years and six months, the tenth series in five years, the eleventh series in five years and six months, the twelfth series in six years, the thirteenth series in six years and six months, the fourteenth series in seven years, the fifteenth series in seven years and six months, the sixteenth series in eight years, the seventeenth series in eight years and six months, the eighteenth series in nine years, the nineteenth series in nine years and six months, the twentieth series in ten years, the twenty-first series in ten years and six months, the twenty-second series in eleven years, the twenty-third series in eleven years and six months, the twenty-fourth series in twelve years, the twenty-fifth series in twelve years and six months, the twenty-sixth series in thirteen years, the twenty-seventh series in thirteen years and six months, the twenty-eighth series in fourteen years, the twenty-ninth series in fourteen years and six months, the thirtieth series in fifteen years, the thirty-first series in fifteen years and six months, the thirty-second series in sixteen years, the thirty-third series in sixteen years and six months, the thirty-fourth series in seventeen years, the thirty-fifth series in seventeen years and six months, the thirty-sixth series in eighteen years, the thirty-seventh series in eighteen years and six months, the thirty-eighth series in nineteen years, the thirty-ninth series in nineteen years and six months, the fortieth series in twenty years from the 15th day of November or the 15th day of May after the date of their issue, said bonds bearing interest not higher than four and one-half per cent. per annum, and the principal and interest thereon, both to be paid semi-annually on the 15th day of November and the 15th day of May: *Provided,* That the petitioners for the improvement of any road or roads, as in this act provided, may, in their petition, ask that the issue of bonds to be issued and sold to raise moneys to pay for such improvement be issued in series, payable in not less than ten years and not to exceed twenty years in the denominations named in this act, as the petitioners may designate in their petition, and the board of county commissioners shall issue the bonds for such improvement in compliance with the request of such petitioners: *Provided further,* If the petitioners

in any such petition fail to ask for any certain term of years in which such bonds shall be payable, then in case of such failure the board of county commissioners shall designate and determine the term of years for which such bonds shall issue and be payable. Such term to be not less than ten nor more than twenty years. The county treasurer shall sell bonds at not less than their face value, and the proceeds shall be kept as a separate and specific fund to pay for the construction of the particular road or roads for which they were issued, and shall be paid by him to the contractor upon warrant of the auditor as directed by the board of commissioners. The commissioners shall order the same to be paid in such amounts and at such times as they may agree, but no payment shall be made by the commissioners for more than eighty (80) per cent. of the engineer's estimate of work done by the contractor, nor shall the whole amount of the contract be paid until the road shall have been received as completed by the board of county commissioners.

Levy of Tax to Pay Bonds—Labor—Working Out Tax.

SEC. 7. For the purpose of raising money necessary to meet said bonds and interest thereon, the board of commissioners shall annually thereafter, at the time the general tax levy is made, levy a special tax upon the property of the township or townships, including the towns and cities, if such there be, of less than thirty thousand (30,000) inhabitants, in such manner as to meet the principal and interest of said bonds as they become due, and such tax shall be collected as other taxes, and shall be applied to the payment of such bonds and interest. If the road or section thereof so constructed runs into or through two or more townships, the amount paid thereof [thereon] shall be divided and charged upon the property of each township, in the same ratio that the assessed valuation of all the property in each township bears to the assessed valuation of all of the property in all of the townships through which the said road or roads runs, and said special tax be levied accordingly. That when any contract shall have been awarded to any contractor for the construction of said road or roads under this act he shall give preference in employing labor for the construction of said road or roads to the citizens of the township or townships, towns or cities in which said road or roads are to be constructed: *Provided, however,* That said preferred labor shall be as good and effective as that which could be procured elsewhere, and at no higher cost: *And provided, further,* That any taxpayer of the township or townships where said road are, who may render any service or labor, or may furnish any material for the construction of said roads, may, if he shall so elect, demand of the contractor a certificate stating the value of the amount of service or material furnished, and if any such certificate shall be issued the county treasurer shall receive the same, and it shall act as a quietus against a similar amount of taxes against the property of said taxpayer, and all such certificates shall be deducted from the contract price of the said road or roads by said contractor.

Free of Toll.

SEC. 8. All roads built under this act shall be free of toll, and shall be kept in repair the same as other free gravel roads constructed under the other laws of the state are repaired.

Surplus.

SEC. 9. After the payment of the costs of construction of said road or roads, should there be any surplus collected or due on delinquent taxes for that purpose, it shall be transferred to the gravel road repair fund.

Amendments—Superintendent—Bonds.

SEC. 10. The board of county commissioners shall have power to permit amendments to be made to the petition of said freeholders, or report of viewers and to extend the time to the viewers to make their report and to continue the hearing from time to time, so as to subserve the ends of justice. It shall be the duty of the board of county commissioners to appoint a competent superintendent to supervise the construction of such road or roads according to the plans, profiles and specifications filed by the engineer and viewers, on which the contract to construct such road or roads was let. He shall be a resident of one of the townships in which the road or roads are located, and his compensation shall not exceed two dollars per day for the time actually employed to be paid out of the construction fund of said road or roads, and he shall render an account of his time to the commissioners monthly at the regular term of their court, subscribed by oath. He shall give bond in the penal sum of five thousand dollars, for the faithful discharge of his duties. The engineers of such road or roads shall also give bond in the penal sum of six thousand dollars for the faithful discharge of his duties, and said superintendent or engineer or both if in default, shall be liable to the township or townships constructing such road or roads on such bond or bonds at the suit of any taxpayer interested in such road or roads for failure to cause said road or roads to be built and constructed according to the plans, profiles and specifications under which the contract to construct the same was let.

Record.

SEC. 11. The county auditor shall make a complete record of all proceedings in making such improvements.

Four Per Cent. Limit.

SEC. 12. It shall be unlawful for any board of county commissioners to issue bonds, or any other evidence of indebtedness payable by taxation, for the construction of free gravel or macadamized roads, when the total issue for that purpose, including bonds

already issued and to be issued, is in excess of four (4) per centum of the total assessed taxable valuation of the property of the township or townships wherein such roads are located or to be located, and all bonds or obligations issued in violation of this act shall be void.

Acceptance of Part—Appeal.

SEC. 13. Whenever any superintendent and the engineer of any road or roads constructed under the provisions of this act, believes that the road or any part thereof, less than the whole of such improvement is completed, as required and according to the plans, plats, profiles and contract, under which the improvement was let, then such superintendent and engineer shall each file their sworn statements with the auditor of the county, which sworn statements shall state that such road or roads, or part thereof, has been completed according to the plans, plats, profiles and contract, under which such improvement was let, and that the quantity and quality of material used in making said improvement was the kind of material, and that the quantity was used as required in the contract, the board of county commissioners shall not act on such proof of the completion of such road or roads or part thereof, until said sworn statements have been filed with the auditor at least ten days before the first day of any regular term of said board, and if, within said ten days, any taxpayer interested in such improvement shall file his sworn statement with the auditor, that such road or roads or part thereof has not been completed according to the plans, plats, profiles, and contract under which such improvement was let, and states specifically in what particular the same has not been completed, then, in such case, the board of county commissioners shall set a day for hearing such issue and other proof on such matter, and may cause witnesses to be subpœnaed, and hear sworn evidence in the same manner as other issues are heard before the board of commissioners.

And if the board of county commissioners find that such road or roads or part thereof has been completed according to the plans, plats, profile, and contract under which such improvement was let, then such board of commissioners shall accept and receive such road or roads, or part thereof, but if the board of county commissioners find that said road or roads or part thereof has not been so completed, then such board shall refuse to accept the same and require the contractor to complete the same according to the plans, plats, profiles and contract: *Be it further provided,* That if the board of commissioners find that such road or roads or parts thereof has been completed according to contract, then in such case the taxpayer who filed his affidavit and formed said issue shall pay all costs, made in any such hearing, and a judgment shall be rendered against him for the same; but if they find that the road or roads or part thereof has not been completed according to contract, then the costs made in such hearing shall be paid by and judgment rendered against the contractor for the same: *Provided further,*

That such taxpayer or contractor may appeal from such decision and finding of the board of commissioners to the circuit court of the county at any time within thirty days from such decision, upon filing a bond to the approval of the auditor of the county, conditioned for the payment of all costs in the cause that may be adjudged in the circuit court against the person taking such appeal, such proceedings to be tried de novo in the circuit court.

Laws Repealed.

SEC. 14. The following laws and parts of laws providing for the construction of free gravel or macadamized roads, to wit: "An act concerning the construction of free gravel, stone or other macadamized roads, providing for their location, the manner of their construction, and providing for the payment of the same and for their maintenance, and declaring an emergency," approved March 3, 1893, and all amendments, acts supplementary thereto or modification thereof, also an act entitled "An act concerning gravel and macadamized roads," approved April 8, 1885, and all amendments, acts supplementary thereto and modifications thereof; also an act entitled "An act to limit the issue of bonds or other evidence of indebtedness for the construction of free gravel or macadamized roads, and declaring an emergency," approved February 7, 1899, and all amendments, acts supplementary thereto and modifications thereof, be and the same are hereby repealed, but this act shall in no wise repeal the act entitled "An act authorizing boards of county commissioners to construct gravel, macadamized or paved roads, upon petition of a majority of resident land owners along and adjacent to the line of any road; authorizing them to issue bonds of the county, to raise money required for that purpose, and provide for the payment of such bonds by taxing land adjacent to the road; repealing all laws inconsistent herewith, and declaring an emergency," approved March 3, 1877, and all amendments, acts supplementary thereto and modifications thereof and the same shall remain in full force and effect the same as if this act had never passed. (1)

Old Roads.

SEC. 15. This act shall apply only to proceedings begun after it becomes operative, and neither its enactment nor the repeal of the laws described in the last preceding section shall in any wise affect proceedings had or begun prior thereto: *Provided*, That in no event shall the bonds already issued and to be issued for the constructing said road or roads exceed four (4) per centum of the total assessed taxable valuation of the property of the township or townships wherein such road or roads are located or to be located, and all bonds or obligations issued in violation of this act shall be void. (2)

(1) This statute repealed the act of March 1, 1901 (Acts 1901, p. 72), amending the first section of the act of March 3, 1877.

(2) The acts repealed continue in force only so far as they relate to proceedings completed or begun prior to March 11, 1901. They can be found in Acts 1877, p. 82; Acts 1885, p. 162; Acts 1893, pp. 35, 196; Acts 1895, p. 143; Acts 1877, p. 82; Acts 1899, pp. 26, 72, 164, 563.

Emergency.

SEC. 16. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in full force and effect from and after its passage.

SUPPLEMENT TO LAW OF 1901.

AN ACT entitled an act concerning the construction of free gravel, stone or other macadamized roads, and for the payment of the cost thereof and their maintenance, and declaring an emergency.

[Acts 1903, p. 204. Approved March 9, 1903.]

Highways—Free Gravel Road—Connecting Sections.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That when the board of county commissioners of any county in the State of Indiana shall have caused to be constructed, or shall have in process of construction, pursuant to a petition and election therefor under an act of the general assembly of said state, approved March 3, 1893, and entitled "An act concerning the construction of free gravel, stone or other macadamized roads, providing for the location, the manner of their construction, and providing for the payment of the same and their maintenance, and declaring an emergency," and the amendments thereto, or under an act of the general assembly of said state, approved March 11, 1901, any free gravel, stone or other macadamized roads in any township or townships contiguous to each other in such county, including in such township or townships all towns and cities therein of less than thirty thousand inhabitants; and any terminal point or any other point or part of any such roads so constructed or in process of construction shall be within five or less miles of the boundary line of such township or townships, or of any constructed free gravel, stone or other macadamized road, or any street in said township or townships (including towns and cities of less than thirty thousand, situate in any such township or townships as part of the township), but shall not reach such township or townships, boundary or such other free gravel, stone or other macadamized road or street; then in such case, the board of commissioners of any such county, upon the petition of fifty freehold voters, and in all townships that have less than one hundred freehold voters a majority of said voters, including therein the towns

and cities of less than thirty thousand inhabitants, and the giving of notice, as hereinafter required, shall at their next regular term or session after the giving of such notice, proceed to consider such petition, and if they find the same to be sufficient and in compliance with the provisions of this act they may proceed at once, as hereinafter provided for, to have any such free gravel, stone or other macadamized road constructed and completed, over and upon any then existing public highway, to the township line of the township wherein it is located, or to connect with any other completed free gravel, stone or other macadamized road or street in such township or townships, or any town or city of less than thirty thousand inhabitants forming a part of such township or townships. The provisions of this section so far as applicable may be invoked for and may apply to the construction of such free gravel, stone or other macadamized road extending from any street in any city or town or from any improved road and extending for five or less miles from the limits of such city or town or improved road, whether or not such new construction shall thereby connect with any other completed free gravel, stone or other macadamized road or street without the limits of such city or town or within any township boundary. (As amended. Acts 1907, p. 211.)

NOTE.—The act of March 3, 1893 (Acts 1893, p. 196), is repealed by act of March 11, 1901 (Acts 1901, p. 459).

Hearing on Petition—Notice.

SEC. 2. Upon the filing of any such petition, the petitioners shall endorse upon the same a day in the next regular session of the board of commissioners when such petition shall be heard by said board. It shall thereupon be the duty of the county auditor to give notice for three weeks by publication in some public weekly newspaper printed in the English language and published in the county; if there be no such paper published in that county, then by posting up in three public places in the township where such improvement is located, and one at the door of the court house in each such county, written or printed notices, which notices, whether published or posted, shall contain a description of the improvement prayed for in the petition, and the date when the same is fixed for hearing before said board of commissioners.

Remonstrance—Costs—Contract.

SEC. 3. Upon the day fixed for the hearing of said petition, said board of commissioners shall proceed to consider the same, and the board of commissioners shall give due consideration to any and all remonstrances filed before said board against said proposed improvements, which remonstrators shall be freehold residents of said township or townships sought to be charged with the construction of said proposed improvements, and in case said remonstrance shall fail the cost of said remonstrance shall be paid by remonstrators and said board of commissioners shall have discretionary power to order or [illegible] order said proposed im-

provements, and if they find it to be sufficient and in compliance with the provisions of this act, they may establish said improvement and order the same to be constructed; and the status of such improvement so ordered shall thereupon become and be exactly the same as if the proposed improvement had been regularly petitioned for and voted upon at an election regularly held under the provisions of said act of March 3, 1893, and the amendments thereto, or under an act approved March 11, 1901, and returns regularly made by the proper election officers in favor thereof, and further proceedings in said matter shall thereupon be had under and according to the provisions of said act of March 11, 1901, and amendments thereto, until said work has been completed and paid for the same as if it had been included in the original petition for the road so being extended to the township line, or to some completed free gravel, stone or other macadamized road in said township, as aforesaid, and said act of March 11, 1901, and the amendments thereto, shall govern all steps subsequent to the establishment of such improvement, as aforesaid, by order of said board of commissioners, including the duties of said board pertaining to the work, the appointment and qualifications of surveyor, engineer and viewers, and their duties, the assessment for damages, the making of claims for damages, the advertising for bids, the letting of contracts, the issue and sale of bonds, levy and collection of taxes and all other steps and proceedings whatsoever; except that if said board of commissioners find they can procure the work to be constructed at the same or less rate of expense than the contract price for the original improvement, to which the improvement provided for by this act is supplementary, and the two works are the same general character as to the materials and the manner of construction, then it shall not be necessary to advertise for or receive bids for the construction of the new work, including the furnishing of materials therefor, but the board of commissioners may, without advertisement and bids, proceed to let the contract for the work at a rate not in excess of the rate at which the original work so being supplemented under the provisions of this act was constructed.

How Act Shall Be Construed.

SEC. 4. This act shall be liberally construed for the purpose of promoting the completion of free gravel, rock or other macadamized roads constructed under the said act of March 11, 1901, and the amendments thereto, but which fail to extend to the boundary of the township in which they are located, or to connect with any other completed free gravel, rock or other macadamized road in such township; and shall be taken and construed as supplemental to said act of March 11, 1901, and the amendments thereto.

Emergency.

SEC. 5. An emergency existing therefor, this act shall take effect and be in force from and after its passage.

LEGALIZING ACTS.

AN ACT entitled an act to legalize all acts and orders of any and all boards of commissioners, the auditors of any and all counties, and the election of officers in any and all counties in the State of Indiana, where such boards have proceeded and constructed free gravel, stone or other macadamized roads under and by virtue of an act entitled "An act concerning the location and construction of free gravel, stone and macadamized roads; providing for raising funds to pay for the same and for their maintenance; and providing for the repeal of other acts touching the same subject-matter, and declaring an emergency," approved March 11, 1901, and as amended by an act entitled "An act to amend section 1 of an act entitled 'An act concerning the location and construction of free gravel, stone or macadamized roads; providing for raising funds to pay for the same and for their maintenance; and providing for the repeal of other acts touching the same subject-matter, and declaring an emergency,' approved March 11, 1901, and declaring an emergency," approved March 9, 1903. And as amended by an act entitled "An act to amend 'An act concerning the locations and construction of free gravel, stone or macadamized roads; providing for raising funds to pay for the same and for their maintenance; and providing for the repeal of other acts touching the same subject-matter, and declaring an emergency,' approved March 11, 1901, and declaring an emergency," approved March 9, 1903. And to legalize any and all bonds issued thereunder and by virtue thereof in any of the counties in the state, whether sold or unsold, and declaring an emergency.

[H. 56. Acts 1907, p. 428. Approved March 9, 1907.]

Highways—Gravel Roads—Legalizing Act.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That in all cases where the board of commissioners of any county in the State of Indiana have proceeded and constructed or have contracted to construct free gravel, stone or other macadamized roads under and by virtue of an act entitled "An act concerning the location and construction of free gravel, stone or macadamized roads; providing for raising funds to pay for the same and for their maintenance; and providing for the repeal of other acts touching the same subject-matter, and declaring an emergency," approved March 11, 1901, as amended by act entitled "An act to amend section 1 of an act entitled 'An act concerning the location and construction of free gravel, stone or macadamized roads; providing for raising funds to pay for the same and for their maintenance; and providing for the repeal of other acts touching the same subject-matter and declaring an emergency,' approved March 11, 1901, and declaring an emergency," approved March 9, 1903; and as amended by an act en-

titled "An act to amend 'An act concerning the locations and construction of free gravel, stone or macadamized roads; providing for raising funds to pay for the same and for their maintenance; and providing for the repeal of other acts touching the same subject-matter, and declaring an emergency,' approved March 11, 1901, and declaring an emergency," approved March 9, 1903; and has issued and sold, or that have been issued and remain unsold, bonds of the county under said acts to pay for the cost of the construction of said road or roads, including the contract price, together with the compensation allowed the viewers and engineers, expenses of the election, of posting notices, of publication, and all other expenses or otherwise, all the acts and orders of any and all of said boards of commissioners and any and all bonds issued by them thereunder, and by virtue thereof, whether sold or unsold, be and the same are hereby in all respects legalized and made valid.

On County Lines—Legalizing Act.

SEC. 2. That in all cases where the board of commissioners of any county in the State of Indiana, have proceeded under the provisions of an act entitled "An act concerning the construction of free gravel, stone or other macadamized roads on county lines and for the payment of the cost thereof and their maintenance on county lines," approved March 7th, 1905, and have fully complied with the provisions of said act, and the board of commissioners of the adjoining county, acting under a certified copy of proceedings given the said board under the provisions of said act, have duly proceeded as directed by said act, and the board of county commissioners before whom the original petition was filed, have contracted to construct free gravel, stone or other macadamized roads under and by virtue of an act entitled "An act concerning the construction of free gravel, stone or other macadamized roads on county lines and for the payment of the cost thereof and their maintenance on county lines," approved March 7th, 1905, and such boards of county commissioners have issued and sold, or which have issued and remain unsold, bonds of their respective counties under said act to pay for the cost of the construction of said road or roads, including the contract price, together with the compensation allowed the viewers and engineers, expenses of election, of posting notices, of publication and all other expenses or otherwise, all the acts and orders of any and all of said boards of commissioners and any and all bonds issued by them thereunder and by virtue thereof, whether sold or unsold, be and the same are hereby in all respects legalized and made valid: *Provided,* That nothing in this act shall in any way affect any suit now pending in any of the courts of Indiana, but the same shall be heard and determined the same as if this act had not passed; and: *Provided further,* That nothing herein shall be construed to legalize any bonds in excess of the limitation of four per centum of the assessed valuation of the taxable property of the townships as now provided by law.

Emergency.

SEC. 3. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

AN ACT legalizing the issuing of free gravel, stone or other macadamized road bonds, issued pursuant to an act of the general assembly of the State of Indiana, approved March 4, 1905, being section one of an act entitled "An act concerning free gravel, stone or other macadamized roads, for the payment of the cost thereof and their maintenance," the same being amendatory of section 1 of an act approved March 9, 1903, and declaring an emergency.

[S. 245. Acts 1907, p. 323. Approved March 9, 1907.]

Highways—Gravel Road Bonds—Legalizing Act.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That all bonds heretofore issued, or attempted to be issued by, and all acts of, the boards of commissioners of the several counties, in the State of Indiana, had and done or attempted to be had and done pursuant to an act of the general assembly of the State of Indiana, approved March 9, 1903, and entitled "An act entitled an act concerning the construction of free gravel, stone or other macadamized roads and for the payment of the cost thereof and their maintenance, and declaring an emergency," or pursuant to said act as amended by an act of the general assembly of the State of Indiana, approved March 4, 1905, entitled "An act to amend section 1 of an act entitled 'An act concerning the construction of free gravel, stone or other macadamized roads and for the payment of costs thereof and their maintenance, and declaring an emergency,' approved March 9, 1903, and declaring an emergency," in connection with which there is no pending litigation, are hereby legalized and declared valid.

Emergency.

SEC. 2. An emergency existing, therefore this act shall take effect and be in full force from and after its passage.

AN ACT legalizing the acts of the county boards of commissioners in matter of granting petitions, making surveys, awarding contracts and issuing of free gravel, stone or other macadamized road bonds, issued pursuant to act of the general assembly of the State of Indiana, approved March 8, 1907, being section one (1) of an act entitled "An act to amend section one (1) of an act entitled 'An act to amend section one (1) of an act entitled "An act entitled an act concerning the construction of free gravel, stone or other macadamized roads and for the pay-

ment of costs thereof and their maintenance, and declaring an emergency," approved March 9, 1903, and declaring an emergency,' approved March 4, 1905."

[Acts 1909, p. 301. Approved and in force March 6, 1909.]

Gravel Road Bonds—Legalizing Act.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That all bonds heretofore issued, or attempted to be issued by, and all acts of the boards of commissioners of the several counties, in the State of Indiana, under the terms and provisions of an act approved March 8, 1907, an act entitled "An act concerning the construction of free gravel, stone or other macadamized roads and for the payment of costs thereof and their maintenance, declaring an emergency," approved March 9, 1903, and declaring an emergency, approved March 4, 1905, are hereby legalized and declared valid: *Provided,* That nothing in this act shall affect any pending litigation.

AN ACT to legalize all acts and orders of any and all boards of commissioners of any and all counties in the State of Indiana, where such boards have proceeded and constructed free gravel roads, stone or other macadamized roads under and by virtue of an act entitled "An act concerning highways," approved March 8, 1905, and as amended by an act entitled "An act to amend sections 70 and 75 of an act entitled an act concerning highways," approved February 25, 1907; as further amended by the act approved March 12, 1907, entitled "An act to amend section seventy-five (75) of an act entitled 'An act concerning highways, approved March 8, 1905, and fixing the time that bonds shall mature and the mode and manner of the same, and repealing all laws and parts of laws in conflict therewith, and declaring an emergency," and as further amended by an act approved March 2, 1907, an act to amend section 63 of an act entitled and set forth 'An act concerning highways,' approved March 8, 1905; also where such roads have been constructed under and by virtue of an act entitled "An act concerning the construction of free gravel or other macadamized roads on the boundary line between counties, providing for their location, the manner of their construction, and providing for the payment of the same and for their maintenance and other matters properly connected therewith, repealing all laws and parts of laws in conflict therewith, and declaring an emergency," approved March 9, 1907, and to legalize any and all bonds issued thereunder and by virtue thereof in any and all counties in the state, whether sold or unsold, and declaring an emergency.

[Acts 1909, p. 176. Approved and in force March 5, 1909.]

Bond Issues Legalized.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That in all cases where the board of commissioners of

any county in the State of Indiana have proceeded and constructed or have contracted to construct free gravel, stone or other macadamized roads under and by virtue of an act entitled "An act concerning highways," approved March 8, 1905, and as amended by an act entitled an act to amend sections 70 and 75 of an act entitled "An act concerning highways," approved February 25, 1907, as further amended by the act approved March 12, 1907, entitled "An act to amend section seventy-five (75) of an act entitled 'An act concerning highways, approved March 8, 1905, and fixing the time that bonds shall mature and the mode and manner of the same, and repealing all laws and parts of laws in conflict therewith, and declaring an emergency,' and as further amended by an act approved March 2, 1907," an act to amend section 63 of an act entitled "An act concerning highways," approved March 8, 1905; also where such roads have been constructed under and by virtue of an act entitled "An act concerning the construction of free gravel or other macadamized roads on the boundary line between counties, providing for their location, the manner of their construction, and providing for the payment of the same and for their maintenance and other matters properly connected therewith, repealing all laws and parts of laws in conflict therewith, and declaring an emergency," approved March 9, 1907, and have issued and sold bonds of the county or have issued bonds of the county that remain unsold under said acts to pay for the cost of the construction of said roads or road, including the contract price together with the compensation allowed the viewers and engineers, expenses of the election, of posting notices of publication, and all other expenses and all the acts and orders of any and all of said boards of commissioners, and any and all bonds issued by them thereunder, and by virtue thereof, whether sold or unsold, be and the same are hereby in all respects legalized and made valid: *Provided,* That nothing in this act shall in any way affect any suit now pending in any of the courts of Indiana, but the same shall be heard and determined the same as if this act had not passed: *And provided further,* That nothing herein shall be construed to legalize any bonds in excess of the limitation of four per centum of the assessed valuation of the taxable property of the townships as now provided by law.

CHAPTER 53.

AN ACT legalizing certain county and highway bonds, and all proceedings under which the same were issued, and declaring an emergency.

[H. 19. Approved March 1, 1913. (Acts 1913, p. 108.)]

Highway Bonds—Issue Legalized.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That all bonds heretofore issued and sold pursuant to any order of the board of commissioners of any county of this state,

for the purpose of providing money for the construction or improvement of any highway under color of any statute of this state, where the purchase price for said bonds has been actually received and retained, or used for the purpose for which said bonds were ordered to be sold, are hereby legalized; and all proceedings or acts of any such board of commissioners or other officer under which said bonds were issued and sold are hereby fully legalized and declared valid.

County Commissioners—Acts Legalized.

SEC. 2. Any and all bonds heretofore issued and sold by the order or direction of the county council of any county of this state under color of any statute thereof, where the full purchase price of said bonds has been paid in good faith by the purchaser thereof, and received and retained in the treasury of such county, or used for the purpose for which said bonds were sold, are hereby legalized, and any and all proceedings or acts of such county council or the board of commissioners or other officer or officers of such county under which said bonds were issued and sold, or pertaining to the issue, authorization or sale thereof, are hereby fully legalized and declared valid.

Statutory Limitation.

SEC. 3. Nothing in this act contained shall be so construed as to affect any pending litigation, or to legalize any bond or bonds issued or sold in excess of any constitutional or statutory limitation of the amount of indebtedness authorized to be created.

Emergency.

Sec. 4. Whereas, an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage. (Acts 1913, p. 108.)

CHAPTER 177.

AN ACT to legalize all acts, orders, contracts and bonds issued whether sold or unsold, in all cases where boards of commissioners have constructed, or contracted for the construction of free gravel, stone or macadamized roads located in two townships contiguous to each other, under and by virtue of an act entitled "An act concerning highways," approved March 8, 1905, and all acts amendatory thereof, and declaring an emergency.

[S. 539. Approved March 10, 1913.]

Highways—County Commissioners—Legalizing Sale of Bonds.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That in all cases where the board of commissioners of

any county in the State of Indiana, have proceeded and constructed, or have contracted for the construction of a free gravel, stone or macadamized road, located in two townships contiguous to each other, under and by virtue of an act entitled, "An act concerning highways," approved March 8, 1905, and all acts amendatory thereof, and have issued and sold bonds of the county, or have issued bonds of the county that remain unsold, to pay for the cost of construction of said road, or roads, including the contract price and all other incidental expenses, all acts done, contracts made and orders of any and all of said boards of commissioners, and any and all bonds issue by them thereunder, and by virtue thereof, whether sold or unsold, be and the same are hereby in all respects legalized and made valid: *Provided,* That nothing in this act shall in any way affect any suit now pending in any of the courts of the State of Indiana: *and Provided, further,* That nothing herein shall be construed to legalize any bonds in excess of the limitation of four (4) per centum of the valuation of the taxable property of the township as now provided by law.

Emergency.

SEC. 2. Whereas, an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage. (Acts 1913, p. 484.)

CHAPTER 25.

AN ACT to be entitled "An act legalizing certain county and highway bonds, and all proceedings under which the same were issued, and declaring an emergency."

[H. 79. Approved February 24, 1911.]

Highways—Bonds—Legalizing Act.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That all bonds heretofore issued and sold pursuant to any order of the board of commissioners of any county of this state, for the purpose of providing money for the construction or improvement of any highway under color of any statute of this state, where the purchase price for said bonds has been actually received and r[e]tained, or used for the purpose for which said bonds were ordered tc be sold, are hereby legalized; and all proceedings or acts of any such board of commissioners or other officer under which said bonds were issued and sold are hereby fully legalized and declared valid.

Other Bonds Legalized.

SEC. 2. Any and all bonds heretofore issued and sold by the order or direction of the county council of any county of this state

under color of any statute thereof, where the full purchase price of said bonds has been paid in good faith by the purchaser thereof, and received and retained in the treasury of such county, or used for the purpose for which said bonds were sold, are hereby legalized, and any and all proceedings or acts of such county council or the board of commissioners or other officer or officers of such county under which said bonds were issued and sold, or pertaining to the issue, authorization or sale thereof, are hereby fully legalized and declared valid.

Pending Litigation.

SEC. 3. Nothing in this act contained shall be so construed as to affect any pending litigation, or to legalize any bond or bonds issued or sold in excess of any constitutional or statutory limitation of the amount of indebtedness authorized to be created.

Emergency.

SEC. 4. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

CHAPTER 266.

AN ACT to legalize gravel road proceedings in certain cases and the bonds issued therein, and declaring an emergency.

[H. 331. Approved March 6, 1911.]

Preamble.

WHEREAS, Prior to March 6, 1909, the construction of gravel and macadamized roads along and upon township lines was provided for by the law which made provision for the building of gravel roads by taxation, and

WHEREAS, Such roads were being constructed under the provisions of what is known as the "Three Mile Gravel Road Law," and

WHEREAS, On March 6, 1909, an act was approved which provided for the construction of gravel and macadamized roads on boundary lines between any two or more townships outside the limits of cities and incorporated towns and declared an emergency, and

WHEREAS, At that time proceedings were pending under former laws for the construction of gravel roads upon township lines in which such roads had been or were thereafter ordered established and in which contracts were made for their construction, and

WHEREAS, There was no saving clause in the act of 1909 and some doubt exists as to the validity of the bonds issued or which may be issued in such proceedings which were pending when the act of 1909 was approved, therefore

Highways—"Three-Mile" Proceedings Legalized.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That in all cases where proceedings were pending on March 6, 1909, for the construction of gravel or other macadamized roads outside the limits of incorporated towns on the boundary line between two or more townships, under the law then in force and where such proceedings were regular and in compliance with the laws then existing, and where such improvements had been ordered, such proceedings shall be legal and valid and are hereby legalized. All contracts heretofore made in any such proceeding and all bonds heretofore issued, and all acts of boards of commissioners in such proceedings done pursuant to the law under which said proceedings were instituted are hereby legalized and declared to be in full force and effect: *Provided,* Nothing in this act shall affect pending litigation.

Emergency.

SEC. 2. Whereas, an emergency exists for the early taking effect of this act, the same shall be in force from and after its passage.

CHAPTER 135.

AN ACT entitled "An act to legalize special elections heretofore held and proceedings had upon petitions filed for authorizing the improvement of county and township roads in any county in this state and to legalize contracts heretofore made for the construction of any such improvement, and to legalize and make valid any and all county bonds heretofore executed or to be executed on account of any such improvement authorized by any such special election or such petition and to legalize all acts of the board of county commissioners in relation to any such election, or petition, contract and bonds, and all acts of the board of county commissioners in relation to the assessment of taxes for the construction of any road authorized by any such special election or petition, and declaring an emergency.

[Acts 1909, p. 332. Approved and in force March 6, 1909.]

Contracts Legalized.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That all special elections heretofore held and petitions for authorizing the improvement of county and township roads are hereby legalized and made valid, and all contracts heretofore made for the construction of any such improvement, and all bonds heretofore executed or to be executed on account of any such improvement authorized by any such special election or by virtue of such petition are hereby legalized and declared valid and that all acts of the board of county commissioners in relation to any such election,

and such petition, contract and bonds and all acts of the board of county commissioners in relation to the assessment of taxes for the construction of any road authorized by such special election or petition are hereby legalized and declared valid: *Provided,* That this act shall not affect pending litigation.

1. Proceedings in Clark County for improving a highway have been legalized. Acts 1909, p. 172.

2. Payment of certain gravel road funds in Lake County has been legalized. Acts 1909, p. 21.

CHAPTER 44.

AN ACT concerning the payment and redemption of road receipts and legalizing redemptions.

[H. 228. Approved February 25, 1911.]

Highways—Road Receipt—Payment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That whenever any road receipt for work done in lieu of taxes shall not have been presented for payment the year the work was done, or at the collection of the first installment of taxes of the year following, or before the regular settlement of the county treasurer with the township trustees, when all road funds remaining in the hands of such treasurer are paid over to the said trustees, then upon presentation of such road tax receipt, or receipts, by the owner of the land for which said road tax was worked out, and for which said receipt was given to the trustee of the township from which the same was issued and wherein such work was done, such township trustee shall upon the presenting of such road receipt to him, by the said holder of the same, take up, redeem, and pay such road receipts out of any funds available in his hands.

Payments Legalized.

SEC. 2. All payments heretofore made by township trustees, in good faith, in redeeming such road receipts, and paying same out of road moneys in his hands are hereby legalized and rendered valid.

Emergency.

SEC. 3. An emergency existing, this act shall be in force from and after its passage.

GRAVEL ROADS ON COUNTY LINES.

AN ACT concerning the construction of free gravel or other macadamized roads on the boundary line between counties, providing for their location, the manner of their construction, and providing for the payment of the same and for their maintenance and other matters properly connected therewith, repealing all laws and parts of laws in conflict therewith, and declaring an emergency.

[H. 132. Acts 1907, p. 363. Approved March 9, 1907.]

Highways—On County Lines—Joint Action.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the boards of county commissioners of any two or more counties of this state, shall have power, as hereinafter provided, to lay out and construct on and along the boundary line between any two or more counties, a turnpike, gravel, stone or macadamized road, or improve by straightening, grading, graveling or macadamizing any road or parts of road now running on and along the boundary line between any two or more counties, and may issue and sell bonds, as hereinafter provided, to raise the money with which to lay out and construct, and improve such roads: *Provided,* That in laying out and improving, or in improving county line roads hereunder, that such roads may vary from such county line or lines, whenever necessary in order to avoid bluffs, hills, ravines or other obstacles, not to exceed one-half mile, and such road when so laid out and improved, or improved under the provisions of this act, shall be considered, paid for and kept in repair the same and in the same proportions as if such roads were established and improved upon and along such county line or lines.

Petition—Joint Hearing.

SEC. 2. That upon the presentation to the board of commissioners of any of said counties interested, at any regular session thereof, of a petition signed by seventy-five adult resident freeholders of the townships abutting such county line road in any or all of such counties between which any such road is to be established, opened and laid out and improved by grading, graveling, paving with stone, or macadamizing material, at least ten of such petitioners to be from each township affected, said board of commissioners shall make and enter on record an order fixing the day to be named in said order when said board of commissioners shall meet in joint session the board or boards of commissioners of the adjoining county or counties at the auditor's office or commissioners' room where said petition is filed, for the purpose of appoint-

ing viewers and a surveyor and engineer to perform the duties hereinafter described. The board of commissioners to which is presented such petition shall direct in their order that fifteen days' notice be given by the auditor to the board or boards of commissioners of the county or counties adjoining, interested therein, of the presentation of such petition and the time and place of such joint session.

Contents of Petition.

SEC. 3. That the petition or petitions filed herein shall set forth the beginning, course and termination and the general description of such public highway sought to be laid out and improved or improved hereunder, with the length of the road or roads sought to be laid out and improved or improved together with a recommendation of the kind of improvement desired, which petition or petitions shall ask for the same character of improvement of the highway or highways described therein: *Provided, however,* That separate petitions may be so filed asking for the improvement of sections of such highway or highways which connect such highway with a free gravel or macadamized road at either end of all described, and such board or boards shall consider all of such petitions as one petition asking for the improvement of the whole line of road as described and connected, the same as if only one petition asking for the whole line had been so filed: *And, provided further,* That such petition or petitions shall have the affidavit of one or more freehold voters of some township or townships abutting such highway sought to be improved, attached, stating that the said petition or petitions are signed by seventy-five or more adult freeholders of such townships abutting such improvement prayed for, and that not less than ten are from each township.

County Auditor—Notice.

SEC. 4. It shall be the duty of the auditor when said petition is filed, to give such notice by transmitting a certified copy of such order and petition including the names and proof attached, to the auditor or auditors of such adjoining county or counties, the same to be served on the members of the board of commissioners of such adjoining county or counties by the auditor or auditors thereof at once upon the receipt of the same by calling them together and delivering such certified copy of such order to said commissioners, and also make record thereof in his office.

Joint Session—Appointment of Viewers—Duties.

SEC. 5. After said notice has been duly served on the members of said board or boards, said boards of commissioners shall at such time and place meet in joint session and by concurrent order appoint two disinterested freeholders, each of whom shall reside in different counties, and not be residents of, or owners of taxable

property of any township interested in or affected by such improvement, and a competent surveyor or engineer as viewers, who shall after being duly notified by the auditor of the county where said petition is pending, and, after taking an oath for the lawful and faithful performance of their duty, take such persons as assistants as are necessary to view and locate such proposed road and determine the public utility thereof, the width of the same, make a profile of the grade, determine the quality and depth of the gravel, stone or other material to be used, and make an estimate of the cost of the construction of said road, including bridges such as townships are authorized by law to build, culverts, drainage and all other things necessary for its completion: *Provided,* That such viewers shall not be required to assess damages to any person or persons except as provided by section 69 of an act of the general assembly of the State of Indiana, approved March 8, 1905, acts of 1905, page 553, which provisions of said act shall apply herein. Said viewers and engineer shall make a report in duplicate and file one report with the auditor of each county immediately upon the completion of their work. Such report shall state and specify the public utility, length, plans, plats and profiles, together with an estimate of the cost of said road, including all damages assessed. And said commissioners while in joint session shall fix the time when such viewers and engineer shall file their report: *Provided,* If necessary, the time for filing said report may be extended by the board before which the petition is filed not to exceed thirty days. It shall be the duty of the county auditor of the county where said petition is filed to attend all joint sessions provided for in this act, and he shall enter at length all proceedings of such joint session on the commissioners' records of his county without delay, and shall at once make out true and certified copies of such records and transmit a copy thereof to the auditor of each county interested, who shall at once copy the same on the commissioners' record of his county.

Viewers' Report—Notice to Taxpayers—Remonstrance.

SEC. 6. Upon the filing of such reports by the engineer and viewers, the county auditor of each county shall, after a majority of such auditors having first agreed between or among themselves on a date to be fixed, give notice of the pendency of such petition to the taxpayers of the township in each of the counties to be affected by such improvements, by the publication of a notice in a weekly or daily newspaper of general circulation in each of such counties for two weeks prior to the day fixed, stating in said notice that a joint meeting of the boards of commissioners of each of such counties shall be held on the day fixed in such notice at the auditor's office or commissioners' room of the county in which such petition is filed, with a brief description of the road and improvement prayed for, and that all resident taxpayers affected by such improvement and opposed thereto shall file their remonstrance

against said improvement, and that said boards of commissioners when in joint session shall hear any and all remonstrances filed. Any resident taxpayer affected by the improvement proposed may file his remonstrance against said improvement with the auditor of the county where said petition is pending at any time up to ten o'clock a. m., on the day fixed in said notices for said board to meet as aforesaid and not thereafter, and the only ground for a remonstrance shall be that said proposed improvement will not be of public utility or convenience. If more than one party remonstrates, the same shall be consolidated and tried together. Said boards of commissioners when in joint session at such time and place, shall try the issues thus formed under the same rules and regulations as other cases are tried before boards of commissioners, and render their decision, and if said boards by a majority vote of all the members of the boards present find for the remonstrator and that said proposed improvement would not be of public utility or convenience, the petition shall be dismissed at the cost of the petitioners, if they find against the remonstrance, then the cost made by reason of such remonstrance shall be adjudged against the remonstrator.

Bids—Advertisement—Award.

SEC. 7. If said boards of commissioners by a majority vote of all the members present find that said improvement petitioned for will be of public utility or convenience, and all claims for damages have been settled or fixed, as hereinbefore in this act provided, said boards shall direct the county auditor of the county where said petition is filed to advertise for bids as now provided for by section 73 of an act approved March 8, 1905, of the acts of 1905, page 556, and the said auditor shall fix the time when said bids shall be received at his office and opened, and shall see that the commissioners of his own county are summoned to appear at said time, and at least ten days' notice be given to the commissioners of the other county or counties of the time and place of receiving and opening of the bids. And it shall be the duty of the county commissioners of the said counties interested, to meet in joint session at the time and place fixed in said notice, and then and there award the contract as provided in sections 74 and 75 of an act approved March 8, 1905, acts 1905, pages 556 and 557, and the board while in joint session shall appoint a superintendent to superintend the construction and improvement of said road as now provided by law, in section 79 of an act approved March 8, 1905, of the acts of 1905, page 559: *Provided, however,* That the notice for bids as required in section 73 aforesaid shall be published in one paper in each county interested in such improvement for two weeks successively in a weekly or daily newspaper of general circulation 20 days before the day of letting, copies of which notice and proof of the publication thereof to be filed with the auditor of the county where the letting takes place by each paper publishing such notice; with the paper charges

taxed thereon, before the letting, and in case of failure to so file said proof, no fee shall be taxed or collected for such publication so failing: *And, provided, further,* That the contractor or superintendent constructing such road or roads shall impartially and equitably employ the labor and teams of the various townships and counties interested in making such improvements, unless it costs more in some townships than others, then in that case the same may be employed wherever the same may be had the cheapest to such contractor.

Work to be Done Under Act of 1905.

SEC. 8. The laying out, constructing or improvement of such county line road shall be done in all respects under and pursuant to the gravel road law, approved March 8, 1905, acts 1905, page 521, providing for gravel roads by taxation, and all acts and laws supplementary thereto, where the provisions of said laws are applicable and not in conflict with the provisions of this act.

Assessments—Bonds.

SEC. 9. The said board shall fix in the order making and establishing said improvement the ratio or part of such road or roads belonging to and assessable against each of the several townships sought to be taxed for such improvement, by giving and assessing to each township such portion of such road or roads to be improved, counting one-half the road to the township or townships on either side thereof, and the boards of commissioners of the several counties interested and so notified, shall, upon notice from the auditor of the county where said proceedings are pending, that the contract has been let, stating the amount of the contract price, and the amount of all other costs, damages allowed, and expenses of every kind necessary to complete such improvement, including all costs of engineer, viewers, publication of notices, help of engineer and viewers in surveying, superintendent of construction, and the fees and charges of the auditor of the county so constructing the improvements, which fees and charges shall be the same as in other like work in his office and shall belong to him individually, except that portion chargeable to his own county, which shall belong to it, but each county shall pay for the costs of printing its own bonds and the selling of same; issue the bonds of its county for a sum equal to the share or portion as assessed and apportioned to each township in its county, as so made and apportioned in the original order for the making of the improvements as the share of roads in each county bears to the whole line of roads, plus the costs of printing and selling such bonds, and upon the sale of such bonds, the proceeds shall be remitted to the auditor of the county where the petition is filed, and by him charged upon his books and then *it shall be his duty to pay* the same into the treasurer of his county,

to be held by him as a special fund for the making of such improvements and paid out upon warrants drawn by such auditor as ordered by the board of commissioners of the county before whom the petition was filed except the final payment which shall be upon the joint order of said board. It is hereby made the duty of the several county treasurers of this state to sell all such bonds so issued, and to remit the proceeds to the auditor of the county where said petition is filed.

Special Tax.

SEC. 10. For the purpose of raising the money to meet said bonds and interest thereon, the boards of the several counties issuing the same shall annually thereafter at the time of the general tax levy, levy a special tax upon all the property of the township or townships affected, including towns and cities therein of less than thirty thousand inhabitants, in such manner as to meet the principal and interest of such bonds as they become due, and such tax will be collected as other taxes are collected in the county: *Provided,* That the levy on the property of each township shall be in the same ratio and proportion as its portion of the road bears to the portion of the others, as the same adjoins each township in the respective counties.

Acceptance of Contract.

SEC. 11. When said construction or improvement is completed according to the contract, plans and specifications, it shall be the duty of the engineer in charge of such work to notify the auditor of each county of the fact of such completion, and the auditor of the county where the petition was filed shall appoint a time and place for the commissioners of each county to meet, not more than 20 days from the receipt of the notice from the engineer, and said auditor shall cause notice to be served on all the commissioners of each county, directing them to meet in joint session at the time and place fixed by him. And it shall be the duty of such commissioners to meet in joint session at such time and place and go over and inspect the road with the assistance and advice of the engineer, and shall if they deem said work performed according to contract, plans and specification, accept the same and make and enter of record an order accepting and receiving such work and order and allow the payment of the balance of the contract price due the contractor. But if such commissioners while in joint session after viewing such road shall conclude that such work has not been performed according to contract, they shall summon before them such contractor and direct him to complete such work and they shall adjourn said joint session long enough to permit such contractor to complete said work, and they shall reassemble in joint session pursuant to such adjournment for the purpose of

accepting said road and ordering payment therefor. And the county commissioners of such county before finally adjourning said joint session shall apportion such county line road equally as nearly as may be, between their respective counties for the purpose of maintenance, and the respective portions as thus fixed shall thereafter be maintained by such counties as free turnpikes, gravel and macadamized roads are now or may hereafter be maintained by counties of this state.

Joint Meetings.

SEC. 12. For the purpose of carrying out the provisions of this act the county commissioners of such counties may meet in joint session as often as may be necessary. and at such times and places as the board before which the petition is filed may appoint, due notice of the time and place having been served on the commissioners of the adjoining county or counties for not less than five days. And such joint sessions may adjourn from day to day or from one period to another as may be necessary.

Tie Vote—Auditor.

SEC. 13. In case the vote of the members of the said boards of commissioners on the question of public utility or convenience shall result in a tie, and by reason thereof said boards can not decide said question, then in such case the auditor of the county in which the petition is filed shall cast the deciding vote.

Repeal.

SEC. 14. The act of the general assembly of the State of Indiana entitled "An act entitled an act concerning construction of free gravel, stone, or other macadamized roads on county lines and for the payment of the cost thereof, and their maintenance on county lines," approved March 7, 1905, and set out as chapter 164 of the acts of 1905, is hereby repealed: *Provided, however,* That the provisions of this act shall not affect any pending litigation, and that all proceedings now pending under the said act of March 7, 1905, shall be and remain the same as if the said act had not been repealed, and the said act shall remain in force for the purpose of completing any such improvements.

Emergency.

SEC. 15. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

CHAPTER 286.

AN ACT to amend section 1 of an act entitled "An act entitled an act concerning the laying out, establishment and construction of free gravel or other macadamized roads outside the limits of cities and incorporated towns on the boundary lines between any two or more townships, providing for their location and establishment, the manner of their construction, and providing for the payment of the cost of laying out, and constructing the same, and for the maintenance and other matters properly connected therewith, and declaring an emergency," approved March 6, 1909.

[H. 722. Approved March 15, 1913.]

Highways—Roads Built on Township Boundary Lines.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section one (1) of the above entitled act be amended to read as follows: Section 1. That the board of county commissioners of any county in this state shall have power as hereinafter provided to lay out, establish and construct on, and along the boundary line, outside the limits of cities and incorporated towns between any two or more townships in said county, a turnpike, gravel, stone or macadamized road, or improve by straightening, grading, graveling with stone or other macadamizing material, any road or parts of road or roads now running on and along, or hereafter established on and along the boundary line between any two or more townships outside the limits of cities and incorporated towns and may issue and sell bonds as hereinafter provided to raise money with which to lay out and construct and improve said roads: *Provided,* That in laying out and improving, or in improving any road or roads upon or along township lines under this act or under any other law of this state, that such road or roads may be laid out, or changed in making improvements, so as to vary from such township line or lines, whenever necessary in order to avoid bluffs, hills, ravines or other obstacles, not to exceed one-half mile, and such road or roads when so laid out and improved, or changed and improved under the provisions of this act or any other law of this state, shall be considered, treated, paid for and kept in repair the same and in the same proportions as if such road or roads were established and improved, or improved upon and along such township line or lines.

Emergency.

SEC. 1½. Whereas, an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

Petition—Notice.

SEC. 2. Whenever a petition signed by fifty or more adult freeholders of the townships abutting such township line road, at least

ten of which such petitioners shall be from each township affected, praying that any public highway on such township line be located, laid out and improved, or improved as hereinbefore set out, shall be addressed to the board of commissioners of the county within which said townships are located, and filed in the office of the auditor of such county, it shall be the duty of such auditor to cause to be published in a weekly newspaper of general circulation, printed and published in said county, and to be posted in not less than three public places within each of the townships named in the petition, and at the door of the court house of said county, a notice setting forth a copy of such petition, and the day whereon the same will be presented to such board of commissioners.

Petition—Contents.

SEC. 3. The petition herein contemplated shall set forth the beginning, course, and termination of each highway sought to be laid out, established, drained or paved, and the beginning and termination, and a general description of each public highway sought to be graded, drained and paved, together with a recommendation of the width of each such highway, and of the character of the improvement to be made.

Presentation to Commissioners.

SEC. 4. Upon the filing of such petition the auditor shall designate by endorsement thereon the day in a regular session of such board of commissioners, not more than thirty-five days thereafter, upon which the same shall be presented to such board and the notice herein presented shall be signed by such auditor and published for two consecutive weeks in such newspaper and posted not less than fifteen days before the day so designated by the auditor.

Hearing—Proof—Engineer—Viewers.

SEC. 5. On the day so designated by said auditor the petitioners may make proof of the publication and posting of such notices, and present such petition to such board of commissioners, and any taxpayer of any township named in such petition, or any person or corporation whose land or property will be affected by the work therein prayed for, may file in writing his objection to the form or sufficiency of such petition, and in the event that such board shall deem such petition to be deficient in form or insufficient in substance, the petitioners shall be permitted to amend the same, but if such petition be not amended in such manner as to be in due form, and sufficient, it shall be dismissed at the cost of the petitioners. If, on the other hand such petition shall be adjudged by the board to be in due form and sufficient, either in the first instance or after the same has been amended, such board of commissioners may, if such board in its discretion, shall deem the same advisable, make an order causing such petition to be spread of record and referring the matter therein prayed for to a competent civil engineer to be ap-

pointed by such board, and two viewers, each of whom shall be a responsible freeholder and voter of such county and not a resident of, nor the owner of taxable property in any township named in the petition.

Engineer and Viewers—Oath—Bond.

SEC. 6. Such engineer and viewers shall meet at a time and place to be designated by such board of commissioners, within ten days after their appointment, and shall each take and subscribe an oath faithfully and impartially to discharge his duties, and such engineer shall execute, and file with such auditor, his bond, with good and sufficient sureties to the approval of such auditor, payable to the State of Indiana, in a penal sum of five thousand dollars, conditioned for the faithful discharge of his duties as such engineer, which bond may be put in suit by any person or corporation whose property shall be injured or damaged by any wrongful act or negligence of such engineer.

Duties of Engineer and Viewers—Report—Profile.

SEC. 7. When such engineer and viewers shall have taken the oath, and such surveyor has executed the bond, herein prescribed, they shall proceed without delay, to view and make all needful surveys of the road or roads mentioned in the petition, and shall determine:

(a) Whether any proposed new highway or part of highway described in the petition will be of public utility;

(b) In respect to each highway or part of highway named in the petition, whether it will be of public utility to grade, drain and pave the same as therein prayed;

(c) The width of each highway or part of highway to be established or improved;

(d) The character of the improvement, including the grading. draining and paving, to be made of each highway mentioned in the petition, which they shall find to be of public utility, together with complete plans and specifications of each such improvement and [of] all bridges, culverts, and waterways required thereon;

(e) The estimated cost of each improvement to be made. And on a day to be designated by such board of commissioners, in the order appointing them, said engineer and viewers, unless the time therefor has been extended by an order of said board, shall file in the office of said auditor their report in writing, signed by each of them, setting forth their determination in said matter in respect to each highway or proposed highway mentioned in the petition, including an accurate description of each new highway to be laid out, established, graded, drained, and paved, and of each public highway to be graded, and paved, together with their recommendations in respect to the paving materials to be used in each instance and complete plans and specifications for each improvement to be made, and the estimated cost of each such improvement, and such report shall be accompanied by an accurate profile of each highway or part of

highway to be improved, showing by proper lines and figures the elevation thereof at each one hundred feet of its length, and the changes to be made therein by excavating or filling, which profile shall be made by the engineer. Any taxpayer of any of the townships named in said petition, desiring to remonstrate against the construction or improvement of said highway, may file with the auditor of such county, within ten days after the date of filing the report of viewers, his remonstrance in writing, and the only ground for a remonstrance shall be that said proposed improvement will not be of public utility and convenience. If more than one party remonstrate the same shall be consolidated and tried together. The board of commissioners shall try the issue thus formed under the same rules and regulations as other cases are tried before boards of commissioners, and render their decision, and if said board finds for the remonstrators and that said proposed improvement would not be of public utility and convenience, the petition shall be dismissed at the cost of the petitioners; if they find against the remonstrance, then the cost made by reason of such remonstrance shall be adjudged against the remonstrator. Either party may appeal to the circuit court in the same manner as in any case of persons aggrieved by any decision of the board of commissioners.

Assessment of Damages—Claims.

SEC. 8. The report and profile of the engineer and viewers shall remain in the office of such auditor, open to the inspection of every person interested therein and his agents and attorneys for at least ten days, and during such time said viewers shall assess such damages as shall be justly due to any infant, idiot or person of unsound mind, and to any other person or corporation making written claim thereof, on account of the appropriation of or injury to his property by the laying out, and establishment and construction of any such new highway or any improvement of any highway prescribed in such report. At the next regular session of such board of commissioners, after the expiration of said ten days, said viewers shall make to said board their supplemental report in writing, setting forth the sums allowed as damages to each infant, idiot or person of unsound mind, and the sum allowed as damages to each other person or corporation making written claim therefor as herein prescribed, together with a description of the property in each case on account of which such damages have been allowed. No damages shall be allowed to, or recovered by any person other than an infant, idiot or person of unsound mind, unless claim therefor shall have been made by him to such viewers before the filing of such supplemental report. Every person or corporation who has made such written claim for damages, and every infant, idiot or person of unsound mind or his guardian, who shall be dissatisfied with respect to the action of such viewers in respect to his claim or in respect to the damages allowed to him, may except to such supplemental report in writing on that account at the session at which the same is filed, whereupon such board of commissioners shall appoint three reviewers to reconsider the same, which reviewers shall subscribe an

oath faithfully to discharge their duties, and shall examine the lands or property claimed to be affected, and assess such damages in each case as they deem to be just and reasonable, and make report of their doings in writing to said board. The board shall cause said supplemental report and the report of such additional viewers to be spread of record, and in event that the road or improvement on account of which such damages are allowed shall be finally established and ordered to be constructed, such damages shall be paid out of the proceeds of the sale of the bonds hereinafter authorized: *Provided,* That if the amount of damages awarded by the reviewers is not ten per cent. greater than the amount assessed by the viewers, the claimant, shall pay all costs made by said reviewers. Any party or person affected may appeal from the report on the question of damages under the general rule for appeals by aggrieved persons.

Order Without Election.

SEC. 9. When all matters with respect to damages and remonstrance have been determined as hereinbefore provided, by the board of commissioners or by the court on appeals, such board of commissioners shall examine the reports and profile made by the engineer and viewers and if they shall find and adjudge the same to be in due form and sufficient they shall establish and order the construction of said road without submitting the question of building the same to an election of the voters of the townships concerned, and when said board shall so decide they shall proceed to have said road constructed in all other respects as if submitted to an election. If two or more highways described in the report of the engineer or reviewers are connected together so as to form a continuous line of highway, the whole may be acted on as one highway, and one proceeding, in which case the board of commissioners shall enter an order to that effect, upon their record, in establishing such highway, but no street or highway in any incorporated town or city shall be improved under the provisions of this act.

Notice to Bidders.

SEC. 10. When any such highway or part of highway shall have been ordered to be laid out, established, graded, drained and paved, as herein provided, or any public highway or part thereof, shall have been ordered to be graded, drained, and paved, as herein provided, it shall be the duty of the board of commissioners to make an order requiring the auditor to give notice by publication for three consecutive weeks in a weekly newspaper of general circulation printed and published in the county, that on a day to be named by such board in such order, sealed proposals will be received by said board of [for] the making of said improvements in accordance with said profile and report the plans and specifications therein set forth. The auditor shall give the notice as ordered, and the notice to be published at Indianapolis shall be published at least two weeks before the day named therein. If the board deems it advisable, it may require similar notices to be posted at public places in the townships in which the road or roads are located.

Contract—Bond by Bidder.

SEC. 11. On the day and at the time and place named in the notices the board shall convene in session and shall receive all sealed proposals tendered and shall open the same in the presence of the bidders and shall let the contract for the construction of such road or improvement to the lowest responsible bidder therefor, but no contract shall be let for a bid higher than the estimates made by the viewers: *Provided,* That with his proposal such bidder shall submit his bond, payable to the State of Indiana, in a penal sum equal to double the sum of his proposal, with good and sufficient sureties to the approval of the board, conditioned for the faithful performance of the work in accordance with the profile and report and the plans and specifications therein set forth, which bond shall be for the benefit of any person or corporation who shall suffer loss or damage by reason of any failure or neglect of such bidder to enter into a proper contract to perform such work or to carry out the same in any particular, or to pay for any labor or material therefor that shall have been furnished either to him or to any subcontractor, agent or superintendent under him. If the proposal includes more than one highway or improvement, one bond covering all shall be sufficient.

Bonds—Interest.

SEC. 12. For the purpose of raising money to pay for construction the board of commissioners shall issue the bonds of the county not to exceed in amount the contract price and all expenses incurred and damages allowed prior to the letting of the contract and a sum sufficient to pay the per diem of the engineer and superintendent hereinafter provided for during the construction of the work and attorney's fees, in denominations not less than fifty ($50.00) dollars each, in forty (40) or less equal series, the first series payable in six months, the second series in one year, the third series in one year and six months, the fourth series in two years, the fifth series in two years and six months, the sixth series in three years, the seventh series in three years and six months, the eighth series in four years, the ninth series in four years and six months, the tenth series in five years, the eleventh series in five years and six months, the twelfth series in six years, the thirteenth series in six years and six months, the fourteenth series in seven years, the fifteenth series in seven years and six months, the sixteenth series in eight years, the seventeenth series in eight years and six months, the eighteenth series in nine years, the nineteenth series in nine years and six months, the twentieth series in ten years, the twenty-first series in ten years and six months, the twenty-second series in eleven years, the twenty-third series in eleven years and six months, the twenty-fourth series in twelve years, the twenty-fifth series in twelve years and six months, the twenty-sixth series in thirteen years, the twenty-seventh series in thirteen years and six months, the twenty-eighth series in fourteen years, the twenty-ninth series in fourteen years and six months, the thirtieth series in fifteen years, the thirty-first

series in fifteen years and six months, the thirty-second series in sixteen years, the thirty-third series in sixteen years, the thirty-third series in sixteen years and six months, the thirty-fourth series in seventeen years, the thirty-fifth series in seventeen years and six months, the thirty-sixth series in eighteen years, the thirty-seventh series in eighteen years and six months, the thirty-eighth series in nineteen years, the thirty-ninth series in nineteen years and six months, the fortieth series in twenty years from the 15th day of November or the 15th day of May, as the case may be, after the date of their issue, said bonds bearing interest not higher than five per cent. per annum, and the principal and interest thereon both to be paid semi-annually on the 15th day of November and the 15th day of May, and as herein specified in case of a twenty-year bond issue and in the same manner as to a lesser time: *Provided,* That the petitioners for the improvement of any road or roads, as in this act provided, may in their petition, ask that the issue of bonds to be issued and sold to raise moneys to pay for such improvement be issued in series, payable in not less than ten years and not to exceed twenty years in the denominations named in this act, as the petitioners may designate in their petition, and the board of county commissioners shall issue the bonds for such improvement in compliance with the request of such petitioners: *Provided, further,* If the petitioners in any such petition fail to ask for any certain term of years in which such bonds shall be payable, then in case of such failure the board of county commissioners shall designate and determine the term of years for which such bonds shall issue and be payable. Such term to be not less than ten, nor more than twenty years. The county treasurer shall sell bonds at not less than their face value, and the proceeds shall be kept as a separate fund to pay for the construction of the particular road or roads for which they were issued, and shall be paid by him to the contractor upon warrant of the auditor. as directed by the board of commissioners. The commissioners shall order the same to be paid in such amount, at such times as they may agree, but no payment shall be made by the commissioners for more than eighty (80) per cent. of the engineer's estimate of work done by the contractor, nor shall the whole amount of the contract be paid, until the road shall have been received as completed by the board of county commissioners.

Tax to Pay Bonds.

SEC. 13. For the purpose of raising money to meet said bonds and interest thereon, the board of commissioners shall annually thereafter, at the time the general tax levy is made, levy a special tax upon the property of the township abutting upon such highway and outside of incorporated towns and cities in such manner as to meet the principal and interest of said bonds as they become due, and such tax shall be collected as other taxes, and shall be applied to the payment of such bonds and interest and to no other purpose. The amount of such bonds and interest shall be divided, apportioned and charged upon the property of each township not included

within the corporate limits of any town or city, in the same ratio that the assessed valuation of all the property in each township bears to the assessed valuation of all of the property in all of the townships abutting upon said road, and said special tax be levied accordingly: *Provided,* The amount to be paid by any township shall be based on the total mileage of road abutting on said township. That when any contract shall have been awarded to any contractor for the construction of said road or roads under this act he shall give preference in employing labor for the construction of said road or roads, to the citizens of the townships abutting on said road or roads to be constructed: *Provided, however,* That said preferred labor shall be as good and effective as that which could be procured elsewhere, and at no higher costs. '*And, provided further* That any taxpayer, of the township or townships where said roads are, who may render any service or labor, or may furnish any material for the construction of said roads, may if he shall so elect, demand of the contractor a certificate stating the value of the amount of service or material furnished, and if any such certificate shall be issued, the county treasurer shall receive the same and it shall act as a quietus against a similar amount of taxes against the property of said taxpayer, and all such certificates shall be deducted from the contract price of the road or roads by said contractor.

Other Proceedings Under Act 1905.

SEC. 14. Further and subsequent proceedings in regard to such improvement, such as appointment of superintendent in charge of construction of said road, constructing, accepting the work, keeping it in repair, and all other steps, shall be taken as set out in sections 77, 78, 79, 80, 81 and 82 of an act entitled "An act concerning highways," approved March 8, 1905, Acts 1905, page 521, and amendments thereto, and with the like force and effect.

Repeal.

SEC. 15. All laws and parts of laws in conflict herewith are hereby repealed.

Emergency.

SEC. 16. Whereas, an emergency exists therefor, this act shall take effect and be in force from and after its passage.

FREE TURNPIKE INSTEAD OF BRIDGES.

AN ACT to authorize county commissioners to construct free turnpikes in certain cases, instead of county bridges, and to authorize boards of county commissioners to construct and pay for bridges built in the corporate limits of towns and cities.

[Acts 1885, p. 74. Approved March 7, 1885. In force June 5, 1885.]

Free Turnpikes.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That whenever in the opinion of the board of county

commissioners, of any county in this state, the public convenience shall require that a bridge should be built, or repaired, over any water-course, said commissioners may construct a free turnpike instead of such bridge, if in their opinion such pike can be so constructed as to avoid the necessities of such bridge, and be of the same public convenience.

Survey—Estimates.

SEC. 2. They shall cause surveys and estimates thereof to be made, and if such estimates exceed the ability of the road district or districts in which such pike is to be built, by the application of the ordinary work and tax to perform, the commissioners may make an appropriation from the county treasury to build the same.

[Acts 1889, p. 151. Approved and in force March 6, 1889.]

Length of Pike—Costs.

SEC. 3. The length of such pike shall not exceed five miles, and the costs of such pike shall not exceed the costs of such bridge or the repairing of the same. Such pikes shall be built over the route deemed most practicable, and the commissioners are empowered to construct such pikes on and along any county or state road, and to enter upon any land and condemn and take so much thereof as is necessary for the construction of such pikes.

Engineer—Viewers—Assessment of Damages.

SEC. 2. The commissioners shall appoint a competent engineer or surveyor, and from the citizens of their county three disinterested freeholders as viewers, who shall proceed on a day named by the commissioners to examine, view and lay out said pike over the route deemed most practicable, or widen and straighten any county or state road for the location of such pike. The auditor of the county shall notify said viewers of their appointment, and of the time and place they shall meet; they shall meet accordingly, and take and subscribe an oath or affirmation to faithfully and impartially discharge the duties of their trust; and if they deem it necessary, they may take to their assistance one person as marker and two chain carriers; they shall mark and lay out such pike, or widen and straighten such road, and determine the manner in which the same shall be done, and assess the damages, if any, sustained by any person or persons through whose lands said pike shall be built; and they shall make an estimate of the costs of such pike, and shall make their report to the commissioners on or before the day named for them to report, which report shall be filed with the auditor of the county.

Report of Viewers—Estimate of Cost.

SEC. 3. The report of the viewers and engineer shall show the beginning, course, width, terminus of such pike, the quantity of

gravel or stone, and the kind of bridges or culverts to be used for the construction of such pike, and through whose lands the same is located; the report shall include all plats, profiles and specifications, and give a description of the proposed work, as to the drains and grade, and damages claimed, and by whom, the amount assessed to each claimant, if any, and through whose land said pike is located; also, the estimated cost of such pike; the plats, profiles and specifications need not be copied into such report, but shall be referred to by exhibits, which exhibits shall be so marked that they may be identified, and shall be retained by the auditor in his office.

Filing Report—Notice.

SEC. 4. As soon as such report is filed with the auditor he shall give notice of the filing of the same by publication, for two weeks successively, in some weekly newspaper of general circulation published in the county where said pike is located; or, if there is no paper published in such county, then he shall give notice by posting up written or printed notices in five of the most public places in such county, which notices shall contain a copy of the report of viewers, excepting the plat, profiles and specifications, and shall state the time when said report will be heard.

Order to Build.

SEC. 5. At the time fixed for the hearing of said report, the commissioners shall proceed to hear the same, and if they find that sections two (2), three (3) and four (4) have been complied with, and that the estimate costs of such pike do not exceed the estimate costs of such bridge, they shall make an order that said pike be built, which order shall state the beginning, course, width and terminus of the same, and the damages, if any, awarded to any person, and that it shall be constructed according to the plat, profiles and specifications of said viewers and engineer, as shown by their report; but such plat, profiles and specifications need not be copied into such order.

Amendments—Change of Time of Report.

SEC. 6. The commissioners shall have power to permit amendments to be made to the report of viewers, to extend the time for them to make their report, to change the time of their meeting, and to continue the hearing of said report from time to time so as to subserve the ends of justice.

Remonstrance—Damages—Trial.

SEC. 7. On or before the day fixed for the hearing of the report of the viewers, any person who is legally interested in the

matter may remonstrate against said report, which remonstrance shall be written and verified by affidavit, and may be for the following causes, viz.: First. That said remonstrant or remonstrants will be damaged by the location of such pike, and that no damages have been awarded them or either of them. Second. That the damages assessed and awarded are too small. If more than one person remonstrates, the remonstrances shall be consolidated and tried together, and the report of viewers shall be prima facie evidence of the facts therein contained. The commissioners shall try the issues formed by such remonstrances, and if they find that sufficient damages have been awarded to such remonstrants they shall order the same to be paid, and that the remonstrating party pay all costs occasioned by such proceedings, and if the remonstrant does not increase the damages assessed him by the viewers twenty per cent. he shall pay the costs occasioned by such remonstrance.

Superintendent of Work.

SEC. 8. After such pike and improvement has been ordered to be made, and assessments, if any, confirmed, the board of commissioners shall appoint some competent person of the county to superintend the construction of the work, who, before entering upon the duties of his trust, shall take an oath or affirmation to honestly, faithfully and impartially discharge the duties of such trust, and execute a bond payable to the State of Indiana, for the use of the parties interested therein, in such sum as such board may direct, with freehold sureties, conditioned for the faithful performance of the duties of such superintendent, which bond must be approved by the board of commissioners. Suit may be brought on said bond by any person or corporation aggrieved and any judgment rendered on such bond shall be without relief from valuation or appraisement laws.

Superintendent's Duties—Bond—Bids—Failure to Perform Work.

SEC. 9. It shall be the duty of the superintendent to construct such pike as ordered by said commissioners, in accordance with such plan and specification on file in the auditor's office. He shall let the contract for the construction of the work in sections of not less than one-half mile, and to the lowest and best bidder. Said bid shall be accompaned by a bond with freehold sureties to the State of Indiana, for the proper performance of his contract within the time and manner described. Said bond shall not exceed the estimate cost of the pike. The superintendent shall give notice of the time and place the contract will be let, by publication for three successive weeks, next prior to such letting, in some newspaper of general circulation in the county where such pike is to be located, and all bids shall be sealed when filed; but no bid shall be accepted which exceeds the estimated cost, and the superintendent shall have the right to reject any or all bids. Suit may be

brought on such bond by the superintendent for any and all breaches thereof; and judgment rendered thereon shall be without relief from valuation or appraisement laws. If the person contracting to construct the work, or any part thereof, shall fail to perform the same according to contract, the superintendent shall have the right to relet the same publicly, and deduct from the contract price of the original contract whatever sum the last contract is in excess of the original contract for which excess he and his sureties shall be liable on their bond.

Completion of Work.

SEC. 10. When the work is completed, the said superintendent shall certify the same to the auditor of the county, and it shall be the duty of the board of commissioners thereafter to provide for the keeping of such road in repair, as is now or may be hereafter provided by law.

Contract for Material—Appraisers—Assessment of Damages—Appeal.

SEC. 11. The superintendent of any such pike shall have power to contract for and purchase such stone, gravel or any other material as may be necessary for the construction of such pike; and if the superintendent and the owner of such stone, gravel or other material can not agree on a price deemed fair and reasonable, the superintendent shall apply to the judge of the circuit court of the county to appoint appraisers to assess the value of such stone, gravel or other material, and on the filing of such application, it shall be the duty of the circuit judge to appoint three disinterested freeholders, who, after being duly sworn to impartially assess the value of said material, or any part of the same, shall enter upon the premises of the owner or owners of said material and assess the value thereof, within three days after their appointment. They shall also assess the damages that may accrue to the owner of said material by the removing of the same through the premises, if any. The appraisers shall immediately report their appraisement to the court; thereupon such contractor shall have the right to enter upon the lands of such owner, and remove the same, or so much thereof as may be necessary to make such pike. An appeal from the decision of the appraisers may be taken to the circuit court, if taken in ten days after the report of appraisers has been filed in said court, but such appeal shall not prevent the immediate entry upon the premises by such contractor for the purpose of taking and removing such material. Such appeal may be taken by either party executing bond in double the amount of the appraisement and by filing the same in the office of the clerk of said court, which bond shall be approved by such clerk. And if the award or appraisement is not reduced ten per cent., the appellant shall pay the cost.

Remonstrances—Trial.

SEC. 12. Any person who has appeared and filed remonstrances before the board of commissioners shall be allowed an appeal to the circuit court in like manner as appeals are now allowed to be taken from the board of commissioners to the circuit court, and the only questions that shall be tried in the circuit court shall be the questions raised before said board on such remonstrance, which questions shall be tried by the court or by jury. On such trial the report of viewers shall be prima facie evidence of the facts contained therein.

Errors to Be Disregarded.

SEC. 13. No person shall be allowed to take advantage of any error committed in any proceedings to lay out, construct or improve any pike under and by virtue of this act, nor of any error committed by the board of commissioners, or by the county auditor, surveyor, engineer, or any other person in the proceedings to lay out and construct such pike, nor of any error or informality or defect appearing in the record of such proceedings, unless the party complaining is affected thereby.

Pay of Employees.

SEC. 14. The compensation of persons employed under this act shall not exceed two dollars per day for viewers, chain-carriers and one marker, including actual expenses, except board, for each day actually employed. The surveyor or engineer shall not receive to exceed four dollars per day for days actually employed in the discharge of his duties. The auditor shall receive for his services, for each one hundred words (five figures counting as one word), the sum of eight (8) cents, to be paid out of the proper gravel road or turnpike funds.

Roads Free.

SEC. 15. All roads built under the provisions of this act shall be free of toll.

Emergency.

SEC. 16. An emergency existing for the immediate taking effect of this act, therefore the same shall be in force from and after its passage.

LEGALIZING ACT.

[Acts 1899, p. 128. Approved and in force February 24, 1899.]

Acts of Commissioners Legalized.

SEC. 2. That in all counties in the State of Indiana, wherein the boards of county commissioners have heretofore paid the cost of elections out of any public funds which costs were incurred in holding an election for the construction of a free gravel, stone or macadamized road as provided in the act approved March 7, 1895, the action of said boards of county commissioners in paying all such costs are hereby legalized and made valid. (1)

(1) The remainder of this act was repealed by the act of 1901. Acts 1899, p. 128.

HIGHWAY ON ABANDONED RAILROAD RIGHT OF WAY.

AN ACT concerning highways located on abandoned railroad right of ways, and providing for the repair of the same as free gravel roads.

[Acts 1905, p. 153. Approved March 4, 1905. In force April 15, 1905.]

Highways—On Abandoned Railroad Right of Way.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That any highway located or that may be hereafter located upon any abandoned railroad right of way within the state, shall become a free gravel road and a part of the free gravel road system of this state, and shall be kept in repair thereafter the same as other free gravel roads are kept in repair, and shall be subject to and governed by the same laws governing the repair and keeping in repair of free gravel roads: *Provided,* That such highway shall be in good condition and repair as a gravel road or turnpike when this act shall take effect, or shall thereafter be put in good condition and repair.

CHAPTER 227.

AN ACT to amend section one of an act entitled "An act concerning the construction of free gravel, stone or macadamized roads; providing for estimates of the same, and receiving bids for the construction of the same and declaring an emergency," approved March 7, 1905, and declaring an emergency.

[S. 167. Approved March 14, 1913.]

Highways—New Estimates—Remonstrance.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section 1 of the above-entitled act be amended

to read as follows, viz: Section 1. That whenever in the past or hereafter, the board of commissioners of any county have upon the petition of freeholders of any township or townships, including towns or cities, in said township or townships of less than thirty thousand inhabitants, whether pursuant to an election of the qualified voters, or without such election being had, where the law provides therefor, ordered the establishment or the improvement of any highway, and have received no bids for the construction of said road or roads and the said board of commissioners find, after investigation, that the cause of receiving no bids for said road or roads is that the estimate of the cost of the construction or improvement of said road or roads as made by the viewers and engineer of said road or roads to be less than the cost of procuring the same to be improved or constructed, said board of commissioners may appoint an engineer and two viewers, having the qualifications provided by the statute under which the roads have been voted, to prepare an estimate of the cost of the construction or improvement of the same, and report the same to the board of commissioners. If the board of commissioners approve of said estimate, the same shall be entered of record and the board of commissioners shall then give notice by publication for two (2) weeks in a weekly newspaper published in said county to the voters of the township or townships wherein the road or roads are situate of said new estimate and the amount thereof, and if within twenty (20) days thereafter a remonstrance is filed with the auditor of the county signed by a majority of the legal voters of the township or townships wherein the roads are situate, the said proceedings shall end, but if no such remonstrance is filed, the said estimate shall thenceforth be the estimate for said road or roads, and shall be taken and considered and be a part of the original report of engineer and viewers of said road or roads. Said board of commissioners shall then proceed to advertise and let the contract for the construction of said roads as provided by law.

Repeal.

SEC. 2. All laws or parts of laws in conflict herewith are hereby repealed.

Emergency.

SEC. 3. Whereas, an emergency exists for the immediate taking effect of this act, the same shall be in full force from and after its passage. (Acts 1913, p. 648.)

SURPLUS GRAVEL ROAD PURCHASING FUND.

[Acts 1897, p. 271. Approved and in force March 2, 1897.]

Treasurer Pays to Trustee.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That whenever any county treasurer has in his hands, as such officer any unexpended balance of any fund collected from the taxpayers of any township, city or town, by special levy for the purpose of purchasing gravel roads, or assisting in the construction of railroads, such Treasurer is hereby authorized and directed to pay over such unexpended balance to the trustee of such township, or the trustees of such city or town, to be applied by such trustee to the township fund, and trustees of city or town to their general funds. (As amended. Acts, 1899; p. 117.)

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in force from and after its passage. (Acts 1899, p. 117.)

CHAPTER 348.

AN ACT for the transfer of certain balances on gravel roads constructed, arising under an act entitled "An act concerning highways," approved March 8, 1905, and acts amendatory thereof.

[H. 738. Approved March 15, 1913. (Acts 1913, p. 941.)]

Highways—Surplus—Transferred.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That where certain roads have been constructed in any township of the state and a surplus remains, and is of no further use for such particular road, such surplus shall be transferred to a "general gravel road by taxation fund" and the board of commissioners acting in behalf of such township, or townships, shall transfer from such fund, a sufficient amount to liquidate the indebtedness of any free gravel or macadam road in such township for which the bond issued may have been insufficient. If after such transfers have been made, a surplus still remains, such surplus shall be applied on the payment of interest or principal, or both of any gravel road bonds of such township on order of the board of commissioners of such county wherein such township or townships lie.

Repeal.

SEC. 2. All laws or parts of laws in conflict with this act are hereby repealed.

Emergency.

SEC. 3. An emergency existing for the immediate taking effect of this act, the same is made effective on and after its passage.

ABANDONMENT WHEN BUILDING GRAVEL ROAD.

AN ACT vacating portions of highways in cases therein specified, and declaring an emergency.

[Acts 1895, p. 18. Approved February 23, 1895.]

Highways Vacated by Viewers to Revert to Owner of Adjacent Property.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That in all cases where free gravel roads have been constructed on the order of the board of county commissioners, over and upon any of the highways of the state, and the viewers in laying out the line of the same, shall have departed, or shall hereafter depart, from the line of such highway, and shall have constructed or shall hereafter construct, portions of such free gravel road over and upon a different line, then all of such portions of said highway thus abandoned be deemed vacated without further proceedings, and the land owner or owners over whose lands such abandoned portions of said highway shall pass shall have the right to fence and improve the same as his or their own: *Provided,* The provisions of this act shall not apply where the fencing of such abandoned portion of such highway would deprive any person owning land along such abandoned highway from access to his land over a highway.

Emergency.

SEC. 2. Whereas there is an emergency for the immediate taking effect of this act the same shall be in effect from and after its passage.

PURCHASE OF TOLL ROADS BY COUNTY ON ELECTION.

AN ACT concerning the purchase of toll roads and providing for their maintenance as free roads.

[1881 S., p. 531. Approved April 9, 1881. In force September 19, 1881.]

Purchase of Toll Road—Petition—Election.

SECTION 1. The county commissioners of any county in this state, when petitioned therefor by fifty freeholders, citizens of the county shall submit to the voters of the county, at any regular spring or fall election, or at any special election which may be called by the board of commissioners, which call shall be made by the commissioners when no fall or spring election is near at hand, giving at least twenty days' notice in a newspaper of general circulation, published in said county, if there be any, and by posting up written or printed notices thereof (which posted notices shall be sufficient in counties where no newspaper is published), at each voting place in said county, the question of purchasing the turnpikes or toll-roads in said county. At such election each voter who is in favor of such purchase shall inscribe on his ballot, "Purchase of toll-roads—yes," and each voter opposed thereto shall inscribe on his ballot, "Purchase of toll-roads—no." The vote on said question shall be certified by the proper officers of said election to the county commissioners; and if at any such election a majority of those voting on said question are in favor of said purchase, the commissioners may make said purchase, but not otherwise.

Order to Purchase—Proceedings.

SEC. 2. At the term of the county commissioners' court at which the result of such vote is known, if it be in the affirmative, said commissioners shall record the result of said election upon their journal; and if a majority of them conclude to purchase said roads, they shall make an order to that effect upon their journal; and, thereupon, there shall be appointed three competent disinterested freeholders for each road to be purchased, residents of said county, in the manner following to wit: One by said commissioners, one by the judge of the circuit court of said county, and one by the directors of each of the roads to be purchased; and said appraisers, after being duly qualified, before some officer authorized to administer oaths, to faithfully discharge the duties required of them by law, shall, within twenty days after their appointment, proceed to personally inspect and examine as to the net profit of the particular road they are to appraise, together with the bridges and culverts thereon at their actual value. Within thirty days after their appointment, said appraisers shall make and return, in writing, to said commissioners, under oath, the valuation of said road,

including the bridges and culverts thereon, deducting therefrom the present value of any of the bridges or culverts built by said county or any town or city thereon, or of any subscription or contribution made by said county or any town or city toward the construction of the same. Said report shall separately state the money value of the road-bed, less the right-of-way of said road-bed, and the separate value of bridges and culverts thereon.

Conveyance—Road Free—Re-Appraisement, When Had.

SEC. 3. Upon the filing of said report said appraisers, if the appraised value of the particular road shall be deemed reasonable, the commissioners shall submit to the owners of said toll-road a proposition for the purchase of the same, at a price not to exceed such appraisal; and if such proposition be accepted, the said commissioners shall, thereupon, purchase and take conveyance thereof from such owners. But, in all cases, the county commissioners shall reserve the right to reject the appraisement, should they deem the same excessive; and they may appoint another board of appraisers, who shall have the same powers and perform the same duties as the first board had performed. And upon the execution of such conveyance, said road shall be declared a free road, to be kept in repair as hereinafter provided.

Payment by County—Bonds—Tax.

SEC. 4. Any turnpike, so purchased as aforesaid, shall be paid for out of any money in the county treasury unappropriated; but no county shall, under this act, purchase any turnpike while in debt for one previously purchased: *Provided,* That in any county in the treasury of which there is not sufficient money to pay for such purchase, the county commissioners may, in their discretion, issue the bonds of the county, payable in installments or at intervals not exceeding in all the period of eight years, bearing interest at the rate not to exceed six per cent. per annum; and such bonds, and the interest thereon, shall be paid in such installments as the board may deem best, by a special tax levied for that purpose at the time the general yearly tax levy is made: *Provided, however,* That all lands which shall have been assessed for the purpose of constructing free gravel roads under the act of March 3, 1877, shall be exempt from taxation for the purpose of purchasing said toll-roads.

How Repaired.

SEC. 5. Toll roads which have been purchased, and have become free turnpike roads, shall be kept in repair the same as other free turnpike roads are kept in repair under the act approved March 24, 1879.

Turnpike Outside County, Not Affected—Conveyance.

SEC. 6. The sale, by any company owning a turnpike, of such part of such road as lies within any county, shall not affect its organization or right as to such part or parts of its road as may be situate outside of such county. The board of directors of any turnpike company, when authorized so to do by a vote of the holders of a majority of the stock of the company represented at a meeting of the stockholders called for that purpose, by either the board of directors or five stockholders of the company (of which at least twenty days' public notice has been given by advertisement in some newspaper of general circulation published in the county in which said road or part thereof is situate), may sell and convey the whole or any part of its road to the county commissioners of the county, together with all rights and privileges appertaining thereto; which sale shall be evidenced by a written deed of conveyance, under the seal of said company, signed by the president or other principal officer of the company and the secretary or other recording officer of the company. Such deed, before it shall have validity, shall be recorded in the official record of deeds of each county within which the road, or any part thereof sold and conveyed, lies.

Claims of Creditors Not Affected by Sale.

SEC. 7. No relinquishment, sale, or transfer herein provided for shall prejudice or affect, in any way, the claim of any creditor of the company which makes the same.

Pay of Appraisers.

SEC. 8. Appraisers herein provided for shall receive their actual expenses and two dollars a day for each day actually employed in the discharge of their duties.

PURCHASE OF TOLL ROADS ON PETITION.

AN ACT providing for the appraisement, purchase and conversion of toll roads into free roads, and for their maintenance as free roads.

[Acts 1883, p. 183. Approved March 8, 1883. In force June 5, 1883.]

Order for Appraisement.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the board of commissioners of any county in this state to enable the owners of toll-roads and the owners of real property lying along the same to convert such toll-roads into free roads,

shall have power within their respective counties to order the appraisement, repair, purchase and conversion of any gravel or macadamized toll-road into a free gravel road where they have been petitioned to do so as hereinafter provided.* (As amended. Acts 1885. p. 209.)

* State v. Beck, 81 Ind. 50.

Petition for Appraisement—Appraisers.

SEC. 2. Upon the presentation of a petition to the board of commissioners praying for the appraisement, purchase, repair, and conversion of any gravel macadamized toll-road or any part thereof into a free road, signed by any number of stockholders owning or representing more than one-half of the shares or certificates of stock of such gravel or macadamized toll-road company, which road shall be fully described and set out in such petition in its corporate name, and the points between which such appraisement, repair, purchase and conversion into a free gravel road is prayed, and the purchase, repair and conversion of such road is a public benefit and of public utility; thereupon, the board of commissioners shall appoint three disinterested freeholders and householders of the county as appraisers and viewers, and a practical engineer, who, after being first duly sworn to discharge faithfully the duties required of them by law, shall proceed upon a day to be named in the order of the board of commissioners, to view, examine, estimate, and appraise the cash value of the gravel or macadamized toll-road described in said petition, and the order of the board of commissioners, together with the cash value of all culverts and bridges belonging to the same; and estimate the cost of putting the same in good repair, and report in writing to the board of commissioners on a day to be named in said order, the total cash value of said gravel or macadamized toll-road, culverts and bridges, and the total estimated cost of putting the same in good repair; and the said three appraisers and viewers shall also ascertain and report to said board at the same time the names of all persons whose lands will be benefited by the purchase, repair and conversion of said road, the number of acres of such land owned by each: *Provided,* That no lands shall be so assessed which do not lie within one and one-half miles of the line of the road.† (As amended. Acts 1885, p. 209.)

† Falmouth, etc., Co. v. Shawan, 107 Ind. 47.

Report—Viewers—Entry of Proceedings—Reviewers.

SEC. 3. Upon the return of the report of the appraisers and viewers mentioned in section two of this act, if it shall appear that said petition, in addition to being signed by the stockholders owning a majority of the stock in such road, is also signed by the persons owning a majority of the lands reported as being benefited by

such purchase, the board of commissioners shall cause to be entered of record all the proceedings had in the premises, together with the report of the appraisers, and they shall order its repair, purchase and conversion into a free gravel road: *Provided,* That if, in their judgment, the road has been appraised at a fair cash value, and that the repair, purchase and conversion of such gravel, macadamized or toll-road is a public benefit and of public utility, they shall thereupon appoint three disinterested freeholders and resident householders of the county, as viewers, who shall, after taking and subscribing an oath to discharge faithfully and impartially their duties as such viewers, view and assess the benefits of such repair, purchase and conversion, by entering upon the land to be affected and benefited by the purchase and conversion of said toll-road, and apportion the appraised value of said gravel or macadamized toll-road, culverts and bridges and the estimated cost of putting the same in good repair, upon the real property benefited, lying within one and one-half miles of either side, and the beginning and terminus of said road according to the benefits to be derived to said real property in the said repair, purchase and conversion of said gravel, macadamized toll road into a free gravel road. In making such apportionment said viewers shall take into consideration the location and value of the real property and the amounts of any assessments that may have been previously made upon the same for the construction of any free gravel road or for the repair, purchase and conversion of any gravel or macadamized toll-road under the provisions of this act.* Said viewers shall, after making said apportionment, report in full the several tracts of real property benefited, and the amounts apportioned and assessed to each, to the county auditor, who shall enter said report in full upon the records with such other proceedings had in the premises, and immediately give notice by three weeks' publication in a newspaper of general circulation, published in the county, and by posting notices at five of the most public places along said toll-road, which notice shall set out the appraised value of said road, culverts and bridges, and also give a full and complete description of the several tracts of real property benefited, and the several amounts apportioned and assessed against each. Said notice shall also fix the day and date when the board of commissioners shall meet at the court house to hear and determine upon said report. On the day named in the notice of the county auditor, the board of county commissioners shall meet at the court house of the county, and if no exceptions shall have been filed to the report of said viewers, the same shall be approved by the commissioners and an order entered upon the records for the repair, purchase and conversion of said gravel or macadamized toll-road into a free gravel road. But if exceptions in writing shall have been filed by any of the owners of real property affected by said apportionment and assessment, accompanied by a good and sufficient bond to the satisfaction of the board of commissioners, conditioned for the payment of all the costs of reapportionment, if so ordered, the

commissioners shall hear the objections, with such evidence as may be offered to sustain such objections, and for that purpose shall have power to administer oaths to witnesses. After hearing all the evidence offered to sustain such objections, the commissioners may confirm the report of said viewers, as herein provided, or refer the same to another set of viewers, to be by them chosen and qualified according to the provisions of this act, which viewers shall, by personally entering upon the premises, reapportion the value of said gravel or macadamized toll-road, culverts and bridges, and the estimated cost of making such repairs against the real property thus affected and described in the report of the first set of viewers, or confirm said report in all things, as may to them seem most equitable and just to the complainant and party interested. Upon the report of a second set of viewers the commissioners shall adjourn to a day named, when they shall again meet to hear and take final action upon the report of the last named viewers, upon which report the same action may be had as upon the first report, except that there shall be no further reference to another set of viewers. The final action of said board of commissioners shall then be entered in full upon the records, together with the report of the viewers confirmed, which entry shall fully set out the estimated cost of repairing and the appraised value of said gravel or macadamized toll-road, culverts and bridges, a description of the lands appraised and assessed for the purchase and conversion of said toll-road into a free gravel road and the several amounts apportioned and assessed to the several tracts of real property designated in said report. The county auditor shall then place said apportioned assessment against the real property described in said report upon the tax duplicate of the county, and shall add to the same the pro rata of the actual and necessary expenses and costs required to carry into effect all the provisions of this act; and after making such order for the repair, purchase and conversion of such gravel or macadamized toll-road into a free gravel road, such board of commissioners shall appoint a competent engineer to superintend the work of making such repair who shall, with the approval of the board of commissioners, make a contract for the performance of the work, and the contractor may at once enter upon the performance of the work of making said repair, under the superintendence of the engineer appointed as aforesaid: *Provided,* That the work of making said repairs shall be let in sections of not less than one mile and to the lowest and best bidder, who shall give such reasonable security for the proper performance of his contract with the time and manner described as the board of commissioners may deem expedient: *Provided, further,* That notice of such letting shall be given by publication in a newspaper in the county for two weeks next prior to the letting, and all bids shall be sealed when filed, but no bid shall be accepted which exceeds the estimated costs, and the engineer and board of commissioners shall have the right to reject any or all bids. (As amended. Acts 1885, p. 209.)

* 77 Ind. 409; 102 Ind. 435.

Special Tax Duplicate—Cost of Repairs.

SEC. 4. The said apportioned assessment against real property for the purchase, repair and conversion of any gravel or macadamized toll-road into a free gravel road under the provisions of this act shall be placed by the county auditor upon a special tax duplicate for that purpose, and to be provided by him at the expense of the county. Such apportioned assessment shall constitute a first lien upon the real property assessed under the provisions of this act in the same manner and form as other taxes are: *Provided,* That all costs of making estimates of costs of repair, appraisement and apportionment and assessment, and all other proceedings to the final order of the county commissioners shall be paid out of the county treasury, and to be refunded to the county out of the first moneys collected on lands assessed or received from the sale of bonds hereinafter provided. (As amended. Acts 1885, p. 209.)

Bonds—Interest—Payment.

SEC. 5. For the purpose of raising the money necessary to meet the expenses of putting in good repair, and the appraised value of any gravel or macadamized toll-road, and the conversion of the same into a free gravel road under the provision of this act, and to provide for all necessary expenses connected therewith, the boards of commissioners are hereby authorized to issue bonds of the county, which bonds shall mature at annual intervals, commencing after a period of two years and not extending beyond ten years, bearing interest at not to exceed six per cent. per annum, payable semi-annually, which bonds shall be sold by the county treasurer without expense to the county, to the highest and best bidder, after first giving three weeks' notice by publication in not less than two newspapers of general circulation, published in the county, and by posting notices at the door of the court house, but in no case shall such bonds be sold for less than their par value. To meet the payment of such bonds, principal and interest as they fall due, the assessment against the real property affected in the repair, purchase and conversion of any gravel or macadamized toll-road into a free gravel road shall be divided into such sums as shall be sufficient to pay said bonds, principal and interest as they become due, and so entered upon the tax duplicate against the lands assessed under the provisions of this act, and shall be collected in the same manner and form as other taxes are collected, and when so collected the money arising therefrom shall be applied to the payment of said bonds, principal and interest, and no other purpose. (As amended. Acts 1885, p. 209.)

Auditor to Notify Director—Record—Payment for Road.

SEC. 6. Upon the final action being had by the board of commissioners, as provided in section four of this act, the county

auditor shall immediately notify the board of directors of such gravel or macadamized toll-road company of such action, and it shall be the duty of such board of directors in order to enable such board of commissioners to successfully carry out the provisions of this act, to furnish the county auditor within fifteen days a full and complete statement of the names of each and every stockholder, and the amount and number of shares or certificates of stock held by him or her in such toll road company, together with all outstanding indebtedness, mortgage or otherwise, and to whom due and owing. The auditor shall make a record of the same in a book to be furnished by the county for that purpose, with a debit and credit column, in which an account shall be opened with each creditor or individual owning or holding certificates of stock in such toll road company upon the presentation and assignment to the county of any just claim or evidence of indebtedness due and owing by said toll road company. The county auditor shall draw a warrant on the county treasury for the amount in full, to be paid in full out of the money belonging to said toll-road company derived from the sale of the bonds under the provisions of section five of this act. After all outstanding indebtedness of such gravel or macadamized toll-road company has been provided, and the cost and expenses of making such repairs paid for, the owners of shares or certificates of stock in such toll-road company or their legal representatives shall be entitled to all moneys pro rata remaining in the county treasury from the sale of bonds, and upon the surrender and assignment of their shares or certificates of stock to the county, the county auditor shall draw a warrant pro rata upon the county treasury for such pro rata amount, which shall be in full payment of said certificates of stock: *Provided*, That in no case shall there be a greater sum pro rated among said stockholders than the appraised price of said toll-road after the indebtedness of said company has been taken therefrom as herein provided. (As amended. Acts 1885, p. 209.)

Payment of Claims.

SEC. 7. Immediately after the sale of the bonds provided for in section five of this act, the county auditor shall notify, in writing, all persons holding unpaid claims or evidences of indebtedness against said gravel or macadamized toll-road company, where the same are due, or as fast as such claims become due, to present the same at the auditor's office of such county for final settlement. And upon the assignment and surrender of any just claim, due and owing by such toll-road company to the county, the auditor shall draw a warrant upon the county treasury for the amount of such claim, principal and interest, to be paid out of the moneys derived from the sale of bonds under the provisions of this act. Upon the refusal or failure of any creditor of such toll-road company, or the legal representative of any claim or evidence of indebtedness, to present the same, when due and owing, for final settlement and

payment, within five days from the date of receiving such notice from the county auditor, as herein provided, then such claim or evidence of indebtedness shall cease to draw interest from the expiration of such date, provided that such claim is due and owing by said toll-road company at the time of notice.

Errors—Circuit Court May Set Aside.

SEC. 8. No person interested in the appraisement, apportionment, assessment or conversion of any gravel or macadamized toll-road under the provisions of this act shall be permitted to take advantage of any errors committed in any of the proceedings of the appraisers, viewers or any other person or persons, or of any defect or informality that may appear of record, or otherwise, in such proceedings, unless the party complaining is affected thereby. But the circuit court in which any action may be brought to enjoin, reverse or declare void any proceedings under the provisions of this act, if there be manifest error in such proceedings affecting the rights of the complainant, may set the same aside as to him; or may order the correction of such errors; or may order the taxes levied and assessed against the complainant to remain upon the tax duplicate; or may perpetually enjoin the collection of the same, as may seem most equitable and just: *Provided,* That the finding of the court shall be final.

Protection of County Against Loss.

SEC. 9. All lands liable to be assessed under the provisions of this act for the appraisement, assessment and conversion of any gravel or macadamized toll-road into a free gravel road shall be held responsible and liable to the county to protect the same against all loss or liabilities arising from any judicial proceedings affecting the apportionment, assessment or reassessment, or to defray the costs of litigations or other liabilities of said toll-road company; and the board of county commissioners shall have power to apportion all such costs and liabilities pro rata, according to the assessments, against the lands benefited in the purchase and conversion of such toll-road; which pro rata expense and liabilities shall be placed upon the tax duplicate and be collected in the same manner and form as other taxes are collected.

Rights of Creditors Saved.

SEC. 10. No appraisement, assessment or conversion of any gravel or macadamized toll-road, as herein provided for, shall prejudice, or in any way affect, the rights or claims of any creditor of such company.

Repairs.

SEC. 11. Gravel or macadamized toll-roads which have been appraised and converted into free gravel roads, under the provisions of this act, shall be kept in repair the same as other free turnpike roads are kept in repair, under the act entitled "An act to provide for the repair of free gravel [turnpike] roads" [etc.], approved March 24, 1879.

Pay of Appraisers—Viewers—Surveyor—County Auditor.

SEC. 12. The compensation of persons employed under the provisions of this act shall be fixed by the board of county commissioners, and shall not exceed two dollars per day: *Provided*, That the surveyor, or engineer, and the county auditor shall receive such compensation for their service as is now, or may be, fixed by law for the compensation of the county auditor and county surveyor, respectively, for like services in other cases.

Saving Clause.

SEC. 13. Nothing herein contained in the provisions of this act shall be construed as affecting or repealing any law now in force relating to gravel or macadamized toll-roads, turnpikes, or free gravel roads.

PURCHASE OF TOLL ROAD ON TOWNSHIP ELECTION.

AN ACT concerning the purchase of toll-roads, and providing for the maintenance of the same, as free gravel roads, and declaring an emergency.

[Acts 1889, p. 276. Approved and in force March 8, 1889.]

Petition—Notice—Election.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That the county commissioners of any county of this state, when petitioned therefor by fifty (50) freeholders, citizens of any township or townships in such county where such toll-road is located, shall submit to the voters of said township or townships in such county through which such road may pass at any regular spring or fall election, or at any special election which may be called by the board of commissioners when no fall or spring election is near at hand, giving at least twenty days' notice in a newspaper of general circulation published in said county, if there be any, and by posting up written or printed notices thereof (which posted notices shall be sufficient in counties where no newspaper is pub-

lished) at each voting place in said township or townships, the question of purchasing turnpikes or toll-roads in said township or townships in such county. At such election each voter who is in favor of such purchase shall inscribe on his ballot, "Purchase of toll-roads—yes," and each voter opposed thereto shall inscribe on his ballot, "Purchase of toll roads—no." The vote on said question shall be certified by the proper officers of said election to the county commissioners, and if at any such election a majority of those voting on said question are in favor of said purchase, the commissioners shall make said purchase, but not otherwise: *And provided, further,* That after said petition has been so filed by the fifty freeholders as aforesaid, and before the election upon such question shall be advertised, it shall be the duty of such board of commissioners to appoint a surveyor or engineer of such county and two disinterested freeholders of the county as viewers, one appointed by said board and one by said company, to view such pike or pikes and determine the consideration to be paid therefor, which consideration shall be published and posted as a part of the aforesaid notices of election; and if such board of commissioners shall find the consideration to be paid for such pike roads, in their judgment, reasonable, they shall submit to the owners of the toll-road or roads a proposition for the purchase of the same at a price not to exceed such appraisal, and if such proposition be accepted the said commissioners shall thereupon purchase and take conveyance thereof as provided in this act: *And provided, further,* That if said commissioners deem said appraisal too high, then they shall not be compelled to proceed with such election and purchase.

Purchase of Two or More Roads.

SEC. 2. If two or more petitions for the purchase of turnpikes or gravel roads in the same township or townships be pending before the board at the same time, they shall be voted on at the same election, and the ballots shall designate each road separately, and the same notice shall contain notices of all propositions to be voted on at the same election.

Deed, How Executed—Bonds.

SEC. 3. Upon the order for the purchase of such road or section thereof being made by the board the company shall execute and deliver to the board of commissioners a written deed, under the seal of said company, conveying to such board the road or section thereof described in such petition, including bridges on the line thereof, and thereupon the board may issue to such company the bonds of the county, payable in installments or at annual intervals, not exceeding in all the period of five years, bearing interest at the rate not to exceed six per cent. per annum, payable annually, and such bonds and the interest thereon shall be paid in such installments as the board may deem best.

Debts to Be First Paid.

SEC. 4. No bonds shall be delivered to any company under this act until the debts of such company shall be paid, or the creditors thereof shall file with the board a stipulation agreeing to accept bonds in lieu of their debts, and in case of a dispute as to the amount due any creditor, bonds sufficient to pay the same and all costs shall be withheld by the board until the same is finally settled and paid.

Special Tax to Pay Bonds.

SEC. 5. For the purpose of raising money necessary to meet said bonds, and the interest thereon, the board of commissioners shall annually thereafter, at the time the general tax levy is made, levy a special tax upon the property of the township or townships voting for such purchase in such manner as to meet the principal and interest of said bonds, and such tax shall be collected as other taxes, and shall be applied to the payment of said bonds and interest. If the road or section thereof so purchased runs into or through two or more townships, the amount paid therefor shall be divided and charged upon the property of such townships, in the proportion that the assessed value of all property in each township bears to the assessed value of all the property in all the townships voting for such purchase and special tax shall be levied accordingly: *Provided, however,* That all lands which shall have been assessed for the purpose of constructing free gravel roads under the laws of this state shall be exempt from taxation under this act until all the other lands in the township shall have been assessed under this act an amount equal to such assessment for the construction of free gravel roads: *And provided, further,* That the board of commissioners may, whenever in their judgment the public interest will be subserved thereby, pay one-third of the cost of purchasing such gravel or toll-road out of the general funds of the county, and in such case the said special tax shall only be levied to pay two-thirds of the amount of said bonds. But their determination to pay said one-third shall be made and entered of record before the notices for the election hereinbefore mentioned are posted, and the fact thereof shall be stated in such notices. (As amended. Acts 1895, p. 166.)

Free of Toll.

SEC. 6. All roads purchased under this act shall become free of toll, and shall be kept in repair the same as roads constructed under the free gravel road laws of the state.

Pay of Employees.

SEC. 7. The compensation of persons employed under the act concerning the purchase of toll-roads shall be, as to appraisers, chain carriers, rod men and one marker, not to exceed two dollars

per day, and actual expenses for time actually employed, and the surveyor or engineer so employed shall not exceed three dollars and fifty cents per day for each day actually employed in the discharge of his duty, all of said expenses to be paid out of the gravel road repair fund of said county if not otherwise provided for by the board of commissioners.

Laws Repealed.

SEC. 8. All laws conflicting with the provisions of this act are hereby repealed.

Emergency.

SEC. 9. Whereas an emergency is hereby declared to exist for the immediate taking effect of this act; therefore, it shall be in force from and after its passage.

CHAPTER 30.

AN ACT entitled "An act concerning the purchase of toll roads, and providing for the maintenance of the same as free gravel roads, and declaring an emergency."

[H. 152. Approved February 24, 1911.]

Highways—Purchase of Toll Roads—Proceedings.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That when the board of commissioners of any county in the state is petitioned by a majority of the legal voters of a township or townships in which there is located a toll road, for the purchase of such toll road, it shall be the duty of such board of commissioners to appoint a surveyor or engineer of such county and one other disinterested freeholder of the county, who, together with one disinterested freeholder to be appointed by the company owning such toll road, shall constitute a committee of viewers to view and appraise such toll road and determine the consideration to be paid therefor, which appraisement and determination shall be reported to the board in writing within twenty days from such appointment, and if such board of commissioners shall find the consideration to be paid for such toll road in their judgment not excessive, they shall submit to the owners of the toll road a proposition for the purchase of the same at such price as they may determine not to exceed such appraisement. And if such proposition be accepted the said commissioners shall thereupon purchase said toll road and take a conveyance therefor as provided in this act.

Contents of Petition.

SEC. 2. The petition provided for in section 1 of this act shall set forth the description showing the termini of such toll road sought

to be purchased, and state in what township or townships the same is located and the length thereof, and the number of miles in each township, and the corporate name of such toll road.

Sufficiency of Petition.

SEC. 3. It shall be shown to such board of commissioners by proof satisfactory to the board that the petition hereinbefore provided for is signed by a majority of the legal voters of the township or townships in which the toll road sought to be purchased is located: *Provided,* That the number to constitute a majority of the voters in this act referred to shall be determined by taking the greatest aggregate vote cast in said township or townships for candidates for any office at the last election preceding the filing of such petition, and a majority of such aggregate vote shall constitute a majority of the legal voters of such township or townships.

Purchase and Conveyance—Bonds.

SEC. 4. Upon the order for the purchase of such road as described in the petition being made by the board, the company shall execute and deliver to the board of commissioners a written deed under the seal of said company conveying to such board the road described in such petition, including bridges and toll houses on the line theroef, and thereupon the board shall issue to such company the bonds of the county payable in installments or at annual intervals not exceeding in all the period of twenty years, bearing interest at the rate not to exceed six per centum per annum payable annually, and such bonds and the interest thereon shall be paid in such installments as the board may deem best, the bonds to be delivered to the company as in this section provided shall be in an amount sufficient to pay the purchase price of said toll road.

Bond Delivery—When.

SEC. 5. No bond shall be delivered to any company under this act until the debts of such company shall be paid, which payment shall be proven to the satisfaction of the board.

Highways—Purchase of Toll Roads—Tax Levy.

SEC. 6. For the purpose of raising money necessary to meet such bonds, and the interest thereon, the board of commissioners shall annually thereafter at the time the general tax levy is made, levy a special tax upon the property of the township or townships petitioning for such purchase in such manner as to meet the principal and interest of said bonds, and such tax shall be collected as other taxes are collected, and shall be applied to the payment of said bonds and interest as they become due. If the road or section thereof so purchased runs into or through two or more townships, the amount paid therefor shall be divided and charged upon the

property of such township, in the proportion that the assessed value of all the property in each township bears to the assessed value of all the property in all the townships petitioning for such purchase and the special tax shall be levied accordingly: *and Provided,* That the board of commissioners may, whenever in their judgment the public interest will be subserved thereby, pay one-third of the cost of purchasing such gravel or toll road, out of the general funds of the county, and in such case the said special tax shall only be levied to pay two-thirds of the amount of the said bonds: *and Provided, further,* That in case a township in which there is located a toll road is in debt beyond the constitutional limit, or which the purchase of such toll road would put the debt of such township more than the constitutional limit, then the board of commissioners of such county may, whenever in their judgment the public interest will be subserved thereby, pay the whole of the cost of purchasing such gravel or toll road, out of the general funds of the county in which such road is situate. (As amended. Acts 1913, p. 647.)

Free of Toll—Repairs.

SEC. 7. All roads purchased under this act shall become free of toll, and shall be kept in repair the same as roads constructed under the free gravel road laws of the state.

Compensations—Additional Levy.

SEC. 8. The compensation for persons employed under the act concerning the purchase of toll roads shall be, as to appraisers, chain carriers, rod men and one marker, not to exceed two dollars per day, and actual expenses for the time actually employed, and the surveyor or engineer so employed shall not exceed three dollars and fifty cents per day for each day actually employed in the discharge of his duty, all of said expenses to be paid out of the fund raised by the levy of the special tax in this act provided for; and the board in making the levy provided for in section 6 of this act, shall in addition thereto, make such additional levy as will pay the expenses provided for in this section as well as all the expenses made in connection with the filing of the petition and the purchase of the toll road. The county treasurer shall, out of the funds raised by the special levy as provided for in this act, pay the bonds and interest thereon as they become due, and shall upon the order of the board of commissioners, out of said special fund pay each item of expense accruing in the matter of the purchase of said toll road.

Repeal.

SEC. 9. All laws conflicting with the provisions of this act are hereby repealed. (Acts 1911, p. 49.)

CHAPTER 163.

AN ACT providing for and limiting the expenses incident to the construction or improvement of free gravel and turnpike roads, under the provisions of the statutes of this state, which shall be allowed by the boards of commissioners of the counties into, through and along the dividing lines on which such roads shall be constructed, and paid out of the funds expressly provided by law, and legalizing payments heretofore made of such expense.

[S. 185. Approved March 4, 1911, p. 423.]

Highways—Incidental Expenses of Construction.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the following expenses incident to the construction or improvement of free gravel and turnpike roads under the various statutes of this state authorizing the construction of such roads, shall be allowed by the boards of commissioners of the counties in which such roads are built, and where built upon county lines, by the boards of commissioners of each county along whose dividing lines such roads shall be constructed, in equal proportions, and paid out of the funds expressly provided by law either by taxation or assessment of lands for the construction of such roads, to wit: The engineer and viewers' per diem and expenses in viewing and locating such roads; the per diem of necessary helpers for such engineer and viewers in the location of such roads; the per diem and expenses of the engineer and the per diem of the superintendent in charge of the construction of such work; the cost of the giving of all notices required by law to be given in connection with the establishment, construction and completion of such roads; petitioners' reasonable attorney's fees; the expenses of all elections held in connection with the establishment of such roads; the cost of printing and selling bonds for the construction of the same; such damages as may be allowed by the viewers on account of the construction of such roads; per diem and actual expenses of members of the board of commissioners for the time and expenses necessarily spent and incurred in and about the establishment, carrying on and completion of said work; the costs of all transcripts of the proceedings of the boards of county commissioners in connection with the establishment and completion of said roads where such transcripts are required to effect the sale of bonds issued for the construction of such roads.

Other Incidental Expenses Denied.

SEC. 2. No other incidental expenses connected with the construction or improvement of any free gravel road or turnpike constructed under the provisions of the statutes of this state shall be allowed by the county commissioners of any county in the state,

either directly or indirectly, or paid out of the county funds of any county in this state, except as expressly enumerated in section 1 of this act: *Provided, however,* That nothing herein contained shall be construed in any manner to apply to or affect the rights of any contractor for the construction of such roads.

Previous Payments Legalized.

SEC. 3. The payment heretofore made by the boards of commissioners of any and all counties in the State of Indiana of the expenses as set out in section one of this act are hereby legalized and made valid.

CHAPTER 153.

AN ACT authorizing the board of commissioners of any county having a population of not less than 90,000 inhabitants and not more than 150,000 inhabitants, as shown by the last preceding United States census, to condemn and appropriate sand, gravel, stone and timber for purposes of highways; to purchase, own and operate dredges, tools and machinery; to sell road material to townships, and declaring an emergency.

[S. 145. Approved March 8, 1913, p. 411.]

County Commissioners—90,000 to 150,000—Gravel Pits.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That whenever, by resolution of the board of commissioners of any county, having a population of not less than 90,000 inhabitants and not more than 150,000 inhabitants, as shown by the last preceding United States census, at any regular meeting thereof, it shall be adjudged necessary in the interest of any free gravel road or turnpike in any such county, to require an entry upon any land, stream, lake or river in such county to procure gravel, sand, stone, timber or any other material necessary for the repair of free gravel roads or turnpikes and giving a description of the lands, streams, rivers or lakes to be entered upon, together with the name or names of the owners and the probable amount of material required, together with the probable cost of the same, such board of commissioners may cause to be filed, in the corporate name of the county in either the circuit or superior courts of said county, a petition setting forth said resolution and praying that appraisers be appointed to appraise the value of said gravel, sand, stone, timber or other material deemed necessary to be acquired for said public uses for said county.

Method of Condemnation.

SEC. 2. Upon the filing of the said petition the owner or owners of such gravel, stone, sand, timber or other road material shall have

the notice provided by law in the commencement of a civil action. It shall be sufficient to make parties defendant to such petition, all persons who are in possession of said real estate and those who appear to be the owners or have any interest therein by the tax duplicates and records in the office of the auditor and recorder of said county. After such notice shall have been given, the court shall appoint three resident freeholders of the county where the said gravel, sand, stone, timber or other material is situated to appraise the value of the same. Before entering upon their duties said appraisers shall take and subscribe an oath that they will honestly appraise said gravel, stone, sand, timber or other road material at its fair cash value; and shall make a report of their appraisement within the time fixed by the court. And should said appraisement [appraisers] fail, for any cause, to make such report within said time so fixed, the court may extend the time, or may appoint other appraisers.

Hearing of Defendants.

SEC. 3. When such report shall have been filed any one of the parties defendant to said petition may, within five days file exceptions to the same, alleging that the appraisement of said road material as made by said appraisement is not the true cash value of the same, and a trial may be had thereon by the court and upon the trial of such exceptions the court shall have the power to ratify, correct, amend or confirm such appraisement in accordance with the findings of the court and the court shall apportion the costs accrued in such proceeding as justice may require.

Providing for Payment.

SEC. 4. When the value of said gravel, stone, sand, timber or other road material shall have been finally determined by said court, the board of commissioners of said county may provide for the payment of the amount so found and may direct the auditor of said county to draw a warrant on the treasurer to be paid out of the gravel road repair fund of said county in favor of the clerk of the circuit court, who shall receive the same and hold it in court for the use of the owner or owners or person or persons to whom it may be entitled. Upon such payment to said clerk of the circuit court and the filing of the receipt therefor in open court as a part of the proceedings, the board of commissioners of such county, the board of directors of free gravel, macadam and turnpike roads in such county, the road superintendents of such county or any other employe or officer of such county shall have the right to immediate entry upon said land, stream, river or lake and immediate right to pass over the land lying between a public highway and the road material condemned in this act and take and use such road materials for the purposes described in this act.

Sale of Road Material to Townships.

SEC. 5. The board of commissioners of any such county may sell any of said road material to any of the townships of said county for highway purposes upon receipt from the township trustees of said township of a sum not less than the actual cost to the county of the furnishing of said road material. In the event said county should sell any of said road material to a township the trustee of said township shall pay to the auditor of such county the price agreed upon and thereupon said money shall be paid to the treasurer of said county by said auditor, and that said auditor shall take a receipt therefor from the treasurer and said receipt shall be filed in the auditor's office of said county and be made a part of the records thereof.

Purchase of Machinery to Operate.

SEC. 6. In order to carry out the provisions of this act the board of commissioners are hereby authorized to purchase, own, and operate a dredge, stone crusher and such other tools and machinery as may be deemed necessary to facilitate the securing and appropriation of road material described in this act and the preparation of the same for use upon the highways of said county.

Emergency.

SEC. 7. Whereas, an emergency exists for the immediate taking effect of this act it shall be in force and effect from and after its passage.

CHAPTER 83.

AN ACT authorizing the unemployed inmates of the Indiana reformatory and the Indiana state prison to be worked upon the public highways of the state under agreements with the managing boards of such institutions, and the boards of commissioners, township trustees and highway boards and commissions, and other matters incident thereto, and repealing all laws in conflict therewith.

[S. 203. Acts 1913, p. 233. Became a law without governor's signature.]

Highways—Convict Labor Employed.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the board of trustees of the Indiana reformatory, and the board of control of the Indiana state prison are each hereby authorized and empowered to work the inmates of said reformatory and prison or any number thereof upon the public highways of this state, whenever there is no labor within the walls of such institutions at which they can be employed; and to that end said board of trustees and board of control shall have the power and authority while

such inmates or part of them are so engaged, to confine them when not so at work in such places, to be designated by such boards of trustees or control, where such inmates may be safely and properly cared for.

Control of Convicts While Employed.

SEC. 2. Said boards of trustees and board of control shall have the power and authority to adopt rules and regulations for the care, custody, control and safety of such inmates while so employed.

Agreement With County Commissioners—Compensation.

SEC. 3. Whenever said board of trustees or board of control shall determine to work such inmates upon the highways, they shall have the right, power and authority to enter into an agreement with the board of commissioners of any county, or the trustee of any township to work such inmates upon the highways of such county or township, and in such agreement to provide for the compensation such county or township shall pay to such board of trustees or board of control for the labor of such inmates, and for provisions for the care, custody, safety and maintenance of such inmates, and to that end such board of commissioners with the consent of the county council and such township trustee with the consent of the township advisory board shall have the right to enter into such agreement. In order to carry out any such agreement, said board of trustees and board of control are each given the power to purchase out of the maintenance fund of such institutions the necessary tools, apparatus, appliances and movable places of confinement for such inmates while so engaged. And said board of commissioners or township trustee with the consent of such county council or advisory board, as the case may be, shall have the authority to purchase all material necessary to perform such work on such highway.

Superintendent.

SEC. 4. Said agreement shall provide for the superintendency of such work, and to that end, said board of trustees and board of control are each hereby authorized to employ an expert superintendent to have charge of such work.

Similar Agreements.

SEC. 5. Said board of trustees or board of control shall have authority to enter into similar agreements with any commission or board which hereafter may be given authority to work or improve the public highways of the state.

Repeal.

SEC. 6. All laws and parts of laws in conflict are hereby repealed.

CHAPTER 189.

AN ACT permitting the transfer of certain surplus funds of any township to the special school funds of such township.

[S. 325. Approved March 12, 1913, p. 551.]

Township Trustee—Advisory Boards—Transfer of Funds.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That if it appears to the advisory board of any township in the State of Indiana, at the next annual September meeting of such board, that there is a surplus of the road funds of such township that will not be needed for road purposes then such advisory board may, by an unanimous vote, pass a resolution and spread the same upon the minutes of such board, directing the trustee of such township to transfer all or any specified portion of such surplus road fund, to the special school fund of such township, and when any such advisory board shall make any such order it shall be the duty of the trustee to transfer said fund in compliance to such order, which fund so transferred shall become a part of the special school fund of such township and be used for special school purposes.

CHAPTER 356.

AN ACT concerning gypsies or other like vagrants, and to repeal an act entitled "An act concerning the occupation of highways or lands adjacent thereto by gypsies, travelers, wanderers or other persons without permission," approved February 26, 1909.

[H. 645. Approved March 15, 1913. Acts 1913, p. 950.]

Gypsies—Use of Highways—Vagrancy.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be unlawful for any band of gypsies, wanderers, travelers or other person or persons, to camp in tent, wagon or otherwise, on any public highway in this state, or lands adjacent thereto, without consent of the owners of such adjacent land, or consent of the owner of the land abutting on the highway where such camping place is made. And it shall likewise be unlawful for any band of gypsies or for any person or persons belonging to or being a member of, or associating or consorting with any such wandering or nomadic band of gypsies, to subsist by begging or charity, or fortune telling, or pretending to reveal hidden secrets, or by practicing questionable arts of legerdemain, or to live in idleness and having no visible or known means of earning a fair, honest and reputable livelihood.

Penalty.

SEC. 2. Any person or persons violating the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not exceeding twenty-five dollars ($25.00) or imprisoned in the county jail not exceeding thirty days, or both.

Repeal.

SEC. 3. That an act entitled "An act concerning the occupation of highways or lands adjacent thereto by gypsies, travelers, wanderers or other persons without permission," approved February 26, 1909, be and the same is hereby repealed.

BRIDGES.

VOTE OF TOWNSHIP TO BUILD BRIDGE ON COUNTY LINE.

AN ACT to amend section one of an act to authorize townships in this state to construct or aid in the construction and repair of bridges across streams of water which form the boundary line between two counties in this state and prescribing the manner of granting such aid and the powers and duties of the board of county commissioners in relation thereto, approved March 6, 1885; and to supplement said act with additional sections numbered 18 and 19, and also prescribing the powers and duties of county treasurers in relation thereto.

[Acts 1889, p. 63. Approved March 1, 1889. In force May 10, 1889.]

Act Amended.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section one of said act be and the same is amended to read as follows, viz.:

Petition to Commissioners of County.

SECTION 1. That whenever a petition shall be presented to the board of commissioners of any county in this state at any regular or special session thereof signed by twenty-five freeholders of any township of such county, which township is bounded on any side thereof by a stream of water which stream forms the boundary line between two counties in this state, asking such township to make an appropriation of money to construct or aid in the construction or repair of a free public bridge used for highway pur-

poses only across such stream, to an amount and upon such terms and conditions as may be specified in such petition, not exceeding, however, two per centum upon the amount of taxable property of such township on the tax duplicate of the county for the preceding year; and when the purpose is to aid in the construction or repair of such bridge, specifying further the fund the same is to be in aid of, and the point as near as practicable on such stream that such bridge is, or is to be located, it shall be the duty of such board of commissioners, after being satisfied that such petition has been properly signed by the requisite number of freeholders of such township, as aforesaid, to cause the same to be entered at full length upon their records.

[Acts 1885, p. 58. Approved March 6, 1885. In force June 5, 1885.]

Polls to Be Opened.

SEC. 2. The board of commissioners shall take said petition under advisement, and thereupon order the polls at the several voting places of the township so petitioning to be opened on a day to be named in the order, which shall not be less than thirty nor more than sixty days thereafter, and the votes of the legal voters of such township named in such petition to be taken upon the subject of appropriating money by such township for the purpose of construction or aiding in the construction or repair of such bridge as prayed for in said petition. The judges and inspectors of elections shall be governed in the reception of votes by the laws then in force regulating general elections.

Auditor to Give Notice.

SEC. 3. The auditor of such county shall immediately give notice, to be published for four weeks successively in some newspaper of general circulation in the county, and by printed hand-bills, to be posted in fifteen public places in the township where the appropriation is prayed for in the petition; said hand-bills shall be posted by the sheriff of the county three weeks prior to the day fixed for taking the vote of the township named in the petition; the same, as well as said newspaper publication, shall notify the qualified voters of said township that the polls will be opened on the day fixed by the order of the board of commissioners at the several voting places in said township, to take the votes of the legal voters thereof, upon the subject of such township constructing or aiding in the construction or repair of the bridge named in said petition, to an amount to be specified in such notice; and the said auditor shall make his official certificate that said notice was published, and said sheriff shall make his like certificate that said hand-bills were posted as required by this act, which certificate shall be entered upon the record of the board of commissioners, and shall be sufficient evidence of the facts therein stated.

Judges and Inspectors of Elections to Open Polls.

SEC. 4. The polls shall be opened at the several voting places in the township by the proper judges and inspectors of elections on the day fixed by said commissioners, and the boards shall be organized, the poll-books and tally sheets shall be kept and the whole voting, taking and certifying shall be conducted as nearly as may be in the manner as provided by law for conducting the voting and certifying the votes at the general election for state and county officers.

Qualification of Voters.

SEC. 5. The qualification to vote at the polls to be opened as required by this act, shall be ascertained, and challenges shall be allowed in the same manner as is now, or may be provided by law for ascertaining the qualifications of voters or making challenges at general elections.

Ballots, How Prepared.

SEC. 6. The ballots used at such voting as provided in this act, shall be printed or written, and those cast for the appropriation by the township to construct or aid in the construction of such bridge or the repairs thereof, shall contain the words, "for the appropriation," and those cast against it shall contain the words "against the appropriation," and if two or more votes shall be found purposely folded together they shall be rejected.

Ballots, How Counted.

SEC. 7. When the ballots shall be counted the board of judges shall make out under their hands a certificate stating in words the number of votes given for the appropriation for the bridge, and the number given against such appropriation; and such certificate, together with one of the lists of voters or poll-books and one of the tally-sheets, shall be deposited with the inspector or with one of the judges selected by the board of judges.

Result, How Determined.

SEC. 8. If there be more than one election precinct in the township asking to make such appropriation, the inspector of each precinct, or the judge of the election to whom such certificate, poll-book and tally-sheet shall have been delivered, shall constitute a board of canvassers, who shall canvass and estimate the certificates, poll-books and tally-sheets returned by each member of said board, for which purpose they shall assemble at the court house on the Thursday next succeeding the day of said voting, between the hours of ten o'clock a. m. and six o'clock p. m. If, however, such township shall have but one election precinct, then the inspector

and judges thereof, or any two of them, shall constitute the board of canvassers, and shall meet at the time and place aforesaid, and perform the duties aforesaid.

Meeting of the Board of Canvassers.

SEC. 9. The members of the board who shall meet at such time and place, shall select one of their number chairman, and the auditor shall act as clerk.

Statement of Votes Cast.

SEC. 10. Such board, when organized, shall carefully compare and examine the papers, and shall prepare and sign a statement of the whole number of votes cast, and the number for such appropriation to construct or aid in the construction or repair of such bridge, and the number against it.

Papers to Be Filed.

SEC. 11. The statement of such vote, as provided for in the preceding section, shall be filed with the auditor, who shall record the same at full length, on the records of the board of commissioners of said county, and carefully file away and preserve the certificates, poll-books and tally-sheets aforesaid.

Sixty Per Cent. of Votes to Secure Appropriation.

SEC. 12. If sixty per cent. of the votes cast shall be in favor of said bridge appropriation, the board of county commissioners, at the ensuing regular June session thereafter, shall grant the prayer of said petition, and shall levy a special tax of at least one-half the amount specified in said petition, but not exceeding one per centum upon the real and personal property in the township liable to taxation for state and county purposes, which tax shall be collected in all respects as other taxes are collected for state and county purposes, and the residue of said tax voted shall be levied by said board of county commissioners, at the June session of the following year, which shall be collected in like manner as in this section provided.

Officers of Election to Be Paid.

SEC. 13. The officers conducting the election provided for in this act shall be allowed the same pay as is allowed for like services in case of a general election. Should the election result in favor of such bridge appropriation, the expenses of the election, after being paid by the county, shall be deducted out of the first moneys collected by virtue of the appropriation.

Township Not Liable.

SEC. 14. No township voting to construct or aid in the construction of any bridge under this act shall be liable for any debt or claim for work, labor, or materials furnished in the construction of any bridge or the repair thereof, nor for any damage to any person by reason of imperfect construction thereof, or by reason of the same getting out of repair.

County Commissioners May Let Contract.

SEC. 15. That whenever any township shall have voted to construct or aid in the construction or repair of any bridge as provided in this act, and the tax in pursuance of such vote has been levied as in this act provided, the board of county commissioners may, if they think public convenience requires the same, let a contract for constructing or repairing such bridge under the same rules for letting bridges wholly in one county, and if the amount of money so voted and levied as aforesaid shall be insufficient for the construction or repair of such bridge, said board of commissioners may add thereto out of any funds in the treasury unappropriated an amount sufficient to construct or repair such bridge, or may levy a tax on the county to make up such deficiency.

Tax to Be Paid, When.

SEC. 16. No tax shall be collected or paid in under the provisions of this act, until a contract for the building or repairing of such bridge shall have been made by the board of county commissioners; but after such tax has been levied and no contract has been let as above provided, said tax shall not be returned delinquent, but shall be continued on the duplicate by the treasurer from time to time until such contract has been let, and when said board of commissioners shall notify said treasurer that a contract has been let to construct or repair such bridge, then said treasurer shall immediately proceed to collect said tax.

Payments, Discretion Allowed Commissioners.

SEC. 17. Whenever the board of county commissioners shall let a contract to construct or repair a bridge, under the provisions of this act, they may pay for the same out of any money in the county treasury not otherwise appropriated; and when said tax on the township, levied under the provisions of this act, is collected, said board shall reimburse said county out of said tax to amount equal thereto.

[Acts 1889, p. 63. Approved March 1, 1889. In force May 10, 1889.]

Duties of Commissioners.

SEC. 18. As soon as the statement of such vote, as provided for in section ten of the act of which this act is supplemental, shall be

filed with the auditor, if the appropriation asked for be to aid another township in this state, on the opposite side of such stream, he shall notify, in writing the auditor of the county in which such other township is located, of the result thereof, and of the total amount of such appropriation, and as soon as the tax shall be levied, as provided for in section twelve of the act of which this act is supplemental, each of the auditors of the counties in which the township voting such appropriation are located, shall notify the other, in writing, of such fact. And all such notices shall be preserved by such auditors in their respective offices, and by them brought to the attention of the board of commissioners of the respective counties, at the next regular or special session thereof, who shall spread the same upon the records, which respective boards of commissioners shall each immediately thereupon appropriate from the general funds of the county an amount equal to the amount appropriated by each of the said townships in their respective counties, to be added to the fund thus created for the purpose herein named.

Appropriations to Construct—Tax Levy—Contract—Treasurer's Duties.

SEC. 19. Whenever townships on each side of such stream shall have voted appropriations to construct, or aid in the construction or repair of any bridge as provided in this act, and the act of which this act is supplemental, and the tax in pursuance of such vote has been levied, as in said act provided, the board of county commissioners of the county in which is located the township making the largest appropriation in the aid of such construction or repair, shall let a contract for the construction or repair of such bridge and proceed therein under the same rules as provided by law for letting and building bridges wholly in one county. And the fund thus appropriated by the township making the smallest of such appropriations shall be transmitted by the treasurer of the county in which such township is located to the treasurer of the county whose board of commissioners shall have let the contract, to be used for the purpose of such appropriation to the extent that the same may be required, pro rating such respective appropriation to complete such work upon the statement and request of the treasurer of the county whose board of commissioners shall have let such contract.

TOWNSHIP VOTING TO BUILD BRIDGE.

AN ACT authorizing townships and counties, in this state, to construct and repair, or aid in the construction and repairing of, bridges over streams of water, forming the boundary line between two townships in this state, whether said townships be in the same or in different counties, and prescribing the mode of making appropriations for that purpose, and declaring an emergency.

[Acts 1895, p. 195. Approved March 9, 1895.]

Construction and Repair of Bridges Over Streams Serving as Boundaries Between Townships—Petitions.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That whenever a petition shall be presented to the board of commissioners of any county in this state, at any regular or special session thereof, signed by twenty-five freeholders of any township of such county, which township is bounded on any side thereof by a stream of water, which forms the boundary line between two townships, whether such townships be in the same or different counties in this state, asking such township to make an appropriation of money, to aid another township named in said petition, in furnishing the money, to pay one-half the cost of constructing a free public bridge, or two or more such bridges, to an amount and upon such terms and conditions as may be specified in such petitions, not exceeding, however, the two-thirds of one per centum upon the amount of taxable property of such township on the tax duplicate of the county for the preceding year; specifying therein the point or points on said stream, as near as practicable, where it may be desired to locate such bridge or bridges, it shall be the duty of such board of commissioners, after being satisfied that such petition has been properly signed by the requisite number of freeholders of such township, as aforesaid, to cause said petition to be entered at full length upon their records.

Order for Election.

SEC. 2. The board of commissioners shall thereupon order the polls at the several voting places of such township, or at such voting places as such board of commissioners may designate, and for that purpose, two or more voting precincts, as organized for general state elections, may be consolidated and one voting place designated for the precincts thus consolidated, to be opened on a day to be named in the order, which shall not be less than thirty nor more than sixty days thereafter, and the votes of the legal voters of such township named in such petition shall be taken upon the subject of appropriating money by such township, for the purpose of aiding in the construction of the bridge or bridges as *prayed for* in such petition.

Inspectors.

SEC. 3. The board of commissioners, at the time of ordering said election, shall appoint inspectors for the voting places designated.

Notice.

SEC. 4. The auditor of the county shall immediately give notice to be published for four successive weeks in some newspaper of general circulation in the county, and by printed hand-bills to be posted in fifteen public places in the township where the appropriation is prayed for in the petition; such hand-bills shall be posted by the sheriff of the county three weeks or more prior to the day fixed for taking the vote. Such hand-bills, as also the newspaper publication, shall notify the qualified voters of the township that the polls will be opened on the day fixed by the order of the board of commissioners, at the several places designated in the order, to take the vote of the legal voters thereof, upon the subject of such township aiding in the construction of the bridge or bridges named, by appropriating the amount specified in such notice, which shall be the same as that named in the petition. And the said auditor shall make his official certificate that said notice was published, and the sheriff shall make his like official certificate that said hand-bills were posted as required by this act, which said certificate shall be entered upon the record of the board of commissioners, and shall be sufficient evidence of the facts therein stated.

Election and Officers.

SEC. 5. The polls shall be opened in the township, at the voting places designated for that purpose, on the day fixed by said commissioners, and at the hour fixed by law for the opening of the polls at general elections. And for that purpose a board of election shall be organized, consisting of the inspector designated by the commissioners, and of judges and clerks selected as follows: One judge and one clerk by voters favoring the bridge appropriation, the other judge and clerk by voters opposing the appropriation. Such inspector, judges and clerks shall have the qualifications required of inspectors, judges and clerks at general elections. Should any of said inspectors, judges or clerks fail to be on hand at the hour for opening the polls, the places of those failing to be on hand shall be filled as provided by law for filling such places at general elections. And the election boards shall be organized, the poll books and tally sheets shall be kept, and the receiving, counting and certifying of votes shall be conducted, as nearly as may be, in manner and form as provided by law for conducting the voting, counting and certifying the votes at the general election for state and county officers. And the qualifications of the voters at such election shall be the same, ascertained the same, and chal-

lenges allowed the same, as is now, or may be provided by law for ascertaining the qualifications of voters and the making of challenges at general elections.

Ballots.

SEC. 6. The ballots used at any such election, as provided for in this act, shall have written or printed thereon the following words:

"For the appropriation."

"Against the appropriation."

The polling clerks shall endorse their initials on the ballot as now provided by law, for ballots used at general elections. The voter, when handed the ballot, shall retire to the voting booth, and there, with pencil, cross out the words: "For the appropriation," if he wishes to vote against the appropriation, but if he wishes to vote for the appropriation he shall cross out the words: "Against the appropriation." When thus fixed to suit the elector he shall fold his ballot so the initials of the polling clerks thereon can be seen, but in a way to conceal how he has voted, and hand said ballot to the inspector, who shall thereupon deposit the same in the ballot box.

Certificate.

SEC. 7. When the ballot shall be counted the board of judges, under their hands, shall make out a certificate stating in words the number of votes given for the appropriation, and the number given against such appropriation, and such certificate, together with one of the lists of voters or poll books, and one of the tally sheets, shall be deposited with the inspector, or with one of the judges selected by the board of judges.

Board of Canvassers.

SEC. 8. If there be more than one election precinct in the township voting to make such appropriation, the inspector of each precinct, or the judge selected for that purpose as herein provided, shall constitute a board of canvassers, who shall canvass and estimate the certificates, poll books and tally sheets returned by each member of said board, for which purpose they shall assemble at the court house of the proper county on the Thursday next succeeding the day of said voting, between the hours of 10 o'clock a. m. and 2 o'clock p. m. If, however, such township shall have but one election precinct then the inspector and judges thereof, or any two of them, shall constitute the board of canvassers, and shall meet at the time and place aforesaid.

Officers of Board.

SEC. 9. The members of the board who shall meet at such time and place shall select one of their number as chairman, and the auditor shall act as clerk.

Duties of Board.

SEC. 10. Such board when organized shall carefully examine and compare the papers, and shall prepare and sign a statement of the whole number of votes cast, the number in favor of the appropriation to aid the construction of such bridge or bridges, and the number against it.

Statement of Vote.

SEC. 11. The statement of such vote, as provided for in the preceding section, shall be filed with the auditor, who shall record the same at full length in the commissioners' record of said county and he shall carefully file away and preserve the certificate, poll-books and tally sheets aforesaid.

Special Tax.

SEC. 12. If a majority of the votes cast shall be in favor of said appropriation, in each township voting said appropriation, if both be in the same county, the board of commissioners of such county. at their next regular session shall make an order which shall be entered at full length on the commissioners' record, granting the prayer of said petition, and shall levy a special tax on the taxable property of said townships of at least one-half the amount specified in said respective petitions, but not exceeding the one-third of one per centum, upon the real and personal property in such townships liable to taxation for state and county purposes, which tax shall be collected in all respects as other taxes are collected for state and county purposes, and the residue of the tax voted shall be levied the following year by said board of commissioners at the time for levying county and state taxes of that year, which shall be collected in like manner as that first levied: *Provided, however,* That no part of said tax shall be levied unless both townships—the one on either side of said stream—votes in favor of said appropriation.

Certificate of Auditor.

SEC. 13. As soon as the statement of such vote shall be filed with the auditor, if the appropriation asked for be to aid in the construction of a bridge or bridges over a stream forming the boundary line between t[w]o counties and if a majority of the votes cast shall be in favor of the appropriation, such auditor, in writing, shall certify to the auditor of the other county of the result of the vote polled, and of the total amount of the appropriation made by the township. Such written certificates shall be recorded at full length in the commissioners' record by the auditor receiving it from the auditor of the other county, the same as the statement is recorded as provided in section eleven of this act, and he shall carefully file away and preserve said written certificate.

The board of commissioners of each of said counties, at their next regular session, shall make an order, which shall be entered at full length on the commissioners' record, and shall respectively levy a special tax of at least one-half the tax voted, all in manner and form as provided in section twelve of this act, when the townships are both in the same county, and the other half of said tax the following year, the same as above provided, and all shall be collected as county and state taxes are collected.

Appropriations.

SEC. 14. If both townships voting aid in the building of the bridge or bridges be situated in the same county, the board of commissioners of such county shall make an appropriation out of any moneys in the county treasury, not otherwise appropriated to pay for the construction of such bridge or bridges, and, if there be no moneys in the county treasury that can be used for that purpose, said board of commissioners shall make provision therefor. And when the taxes voted by the townships as herein provided shall be levied and collected, said county shall be reimbursed for one-half the amount that said bridge or bridges may cost.

If the townships voting aid in the building of the bridge or bridges be situated in different counties, then the respective boards of commissioners shall make appropriations out of any moneys in the respective treasuries, not otherwise appropriated to pay the amount voted by the township of the county making the appropriation, and to pay such county's proportionate part of that half of the cost of building the bridge or bridges not voted by the townships. Said half not voted by the townships shall be apportioned between the counties, in proportion to the aggregate taxable property of the respective counties, as the same appears upon the tax duplicate for the preceding year. And if in either of the county treasuries there be no moneys that can be used for that purpose, the board of commissioners of such county shall make provision to pay the amount voted by the township of such county, and to pay such county's proportionate part of the half to be furnished by the two counties as herein provided. To the extent the proper county may, as herein provided, furnish the funds to pay what its township has voted, said county shall be reimbursed when the taxes voted by such township are levied and collected.

Survey and Estimates.

SEC. 15. Whenever the first installment of taxes voted by the townships shall have been levied, as herein provided, the boards of commissioners of the two counties shall, by concurrent resolution, cause a survey and estimate to be made and require plans and specifications to be submitted therewith by some competent person to be presented to the respective board at some specified time and place at or near the site or sites of such contemplated bridge

or bridges when and where such boards of county commissioners shall meet in joint session to estimate and determine the kind of bridge or bridges which shall be erected and the manner and time when payments shall be made for the erection of such bridge or bridges: *Provided,* That whenever the board of commissioners so notified shall fail or refuse, for a period of twenty days, to act on the same by joining in the building of such bridge or bridges, then and in that event the board of commissioners so giving the notice may build such bridge or bridges under the same rules and regulations as now in force or may hereafter be in force, for building bridges wholly within the county, and in that case their county shall have a claim against the delinquent county for the aggregate sum voted by the township in such delinquent county and the proportionate part which such delinquent county should appropriate as herein provided. Said claim may be enforced against the delinquent county as other claims are enforced against counties in this state, and when such claim is litigated the judgment shall include interest from the time of default upon the part of such delinquent county, and shall also include a reasonable attorney's fee for plaintiff's attorney.

Failure to Agree.

SEC. 16. In case the board of commissioners of the two counties can not agree in relation to the matters herein provided for, then the board of commissioners of that county whose appropriations herein provided for, including that voted by the township in such county is the largest, shall take jurisdiction and proceed to build the bridge or bridges under the rules and regulations now, or which hereafter may be, in force for building bridges wholly within the county. And in such case such county shall have a claim against the other county, for the amount, which said county and its township should furnish, as herein provided, and may enforce the collection thereof according to the rule in section fifteen of this act provided.

Superintendents.

SEC. 17. It shall be the duty of said boards of county commissioners while in joint session as hereinbefore provided, to appoint one or more persons as superintendents, who shall have full control and supervision of the erection of such bridge, subject, however, to such regulations as such boards of county commissioners may determine upon.

Ownership and Repair.

SEC. 18. It shall be the duty of such boards of county commissioners, in joint session, to make appropriations for their respective counties in the proportions above indicated. And said bridge or bridges when completed shall be owned by the respective townships

and counties aiding in the construction thereof, in the proportions to be appropriated as above provided. And thereafter such bridges shall be kept in repair and rebuilt when necessary; the townships paying the one-half thereof in proportion to their respective taxables, and the counties the one-half in proportion to their respective taxables. Said taxables to be determined by the tax duplicates for the year preceding the making of any such repairs or of rebuilding.

Sealed Proposals—Notice.

SEC. 19. The superintendent or superintendents, as the case may be, shall let the building of such bridge or bridges to the lowest responsible bidder, who shall make his bid by sealed proposals. Before letting, notice shall first be given by four weeks' publication in some newspaper in each county, of general circulation therein, and by posting at least ten printed handbills in as many public places in each of the townships voting the aid. Bond shall be required from the contractor, with satisfactory surety for the due performance of the contract. And in the letting the superintendents may advertise for bids covering the entire building and for separate bids per cubic yard for the stone piers and abutments, and per cubic yard for the dirt necessary to make the fill for the approaches, and per lineal foot for the iron or wooden structure spanning the stream, and shall award the contract to the best advantage.

Act, How Construed.

SEC. 20. This act shall be construed as cumulative, and as not repealing or affecting any other law upon the statute books. Other laws which are applicable, however, may be invoked in aid hereof to supply an omission or cure a defect.

Emergency.

SEC. 21. An emergency exists for the immediate taking effect of this act, it shall therefore take immediate effect and be in force from and after its pasasge.

BRIDGES.

[1881 S., p. 87. In force September 19, 1881.]

Across Boundary Line.

Section 1. Whenever public convenience shall require the erection or repair of any bridge across any stream forming the

boundary line between two counties within this state, upon application therefor to the board of county commissioners of either county, such board of county commissioners may, if they think it expedient, declare their willingness to aid in the erection or repair of such bridge by resolution or order, and shall cause notice thereof to be given to the board of county commissioners of the other county interested therein. And whenever it may be ascertained that the board of county commissioners of both counties have made such order or resolution, such board of county commissioners shall, by concurrent resolution, cause a survey and estimate to be made, submitting plans and specifications therewith, by some competent person, to be presented to their respective boards of county commissioners at some specified time and place at or near the site of such contemplated bridge, when such boards of county commissioners shall meet in joint session to estimate and determine the kind of bridge which shall be erected, and the manner and time when payments shall be made for the erection or repair of such bridge: *Provided,* That whenever the board of county commissioners of any county shall have notified the board of county commissioners of any county interested in the erection or repair of any bridge, as specified in this section, and such board of county commissioners so notified, shall fail or refuse, for the period of thirty days, to accept or to act on the same by joining in the building or repair of such bridge, then, in that event, the board of county commissioners of such county passing such order, may, if in their opinion public convenience requires the same, build or repair such bridge, under the same rules and regulations as are now or may be in force for the building and repair of bridges wholly within the county, after first having obtained the consent and permit of the land-owner in the adjoining county, whose land will be occupied by such bridge, to the building of the same.

Note.—See page 122.

[1869 S., p. 27. In force May 14, 1869.]

Superintendent.

Sec. 2. It shall be the duty of said boards of county commissioners, while in joint session, to appoint one or more persons as superintendents, who shall have full control and supervision of the erection and repair of said bridge, subject, however, to such regulations as such boards of county commissioners may determine upon.

Joint Appropriations.

Sec. 3. It shall be the duty of such boards of county commissioners, in joint session, to make such appropriation for their *respective counties* as will make an equitable proportion to each

county of the whole cost of construction or repairs of such bridge; and such appropriation shall be in proportion to the taxable property of the two or more counties, and all taxes hereafter levied for the erection, repair or purchase of any such bridge so situated shall be levied in accordance with this act; and when the requirements of the first section of this act have been complied with, and one of the counties which will be affected by the erection, repairing or purchasing of said bridge refuses to join in the construction, repairing or purchasing of such bridge, the county desiring such improvement may construct, repair or purchase such bridge, as provided in said first section of this act, and when the cost of such bridge or repairs does not exceed $3,500, the county making such improvement shall be entitled to recover from the adjoining county affected by such improvement the amount that said county should have paid had she joined in the said improvement, said claim to be enforced as other claims are enforced against counties in this state; and when such claim is litigated the judgment shall include a reasonable attorney fee for the plaintiff's attorney. (As amended, Acts 1893, p. 46.)

Security.

Sec. 4. The said boards may require bond and security from such agent or superintendent, or from any contractor or contractors, which may be made payable to both or either of such boards.

Ownership.

Sec. 5. Each county shall be regarded as the owner of an interest in any bridge erected in pursuance of this act, and each shall have a voice in regulating the use thereof.

[1857, p. 20. In force August 24, 1857.]

County Bridges, Surveys and Estimates.

Section 1. Whenever in the opinion of the county commissioners the public convenience shall require that a bridge should be repaired or built over any water-course, they shall cause survey and estimate therefor to be made, and direct the same to be erected.

Appropriations.

Sec. 2. If the estimate therefor shall exceed the ability of the road district in which such bridge is to be built, by the application of its ordinary road work and tax, to perform, the county commissioners may make an appropriation from the county treasury to build or repair the same.

Donations.

Sec. 3. Such board shall receive and appropriate all donations for the erection and repair of bridges; they shall also aid the same, when of general importance, by advances from the county treasury, and shall make such regulations in reference to payments and kinds of bridges as to them shall seem proper: *Provided, however,* That if the board of commissioners of any such county shall not deem any such bridge of sufficient importance to make an appropriation from the county treasury for the erection or repair thereof, the trustee of any township in which such bridge is situate may appropriate any part of the road-tax fund in the township treasury for that purpose, if he shall deem it right and expedient so to do.

[1855, p. 18. In force August 17, 1855.]

Superintendent.

Sec. 4. For the erection of any such bridge, the said board may appoint one or more discreet persons as superintendents thereof.

Compensation.

Sec. 5. Such superintendents may be allowed a suitable compensation for their services, and shall take an oath faithfully to discharge their duties as such.

Proposals—Notice.

Sec. 6. Such superintendents, after having given thirty days' notice thereof, by posting up notices in three public places of the township in which such bridge is to be erected, or by publication in a newspaper of such county, shall receive sealed proposals for the erection of such bridge or bridges, shall let the same to the lowest responsible bidder, and shall require the constructor to give bond and surety for the due performance of his contract.

Toll.

Sec. 9. The board of commissioners may charge toll on any bridge erected in such county, to pay the cost of erecting the same; but in no case shall such tolls be continued after the sum expended in such bridge shall have been derived from such toll.

Repairs—Fast Driving.

Sec. 11. The board of commissioners of such county shall cause all bridges therein to be kept in repair, and shall cause the township superintendent of the proper road-district to keep in a conspicuous place, at each end of any bridge in his district whose

chord is not less than twenty-five feet, the following notice in large English characters: "One dollar fine for riding or driving on this bridge faster than a walk." And if any person shall ride or drive over any such bridge faster than a walk, for any such offense he shall forfeit and pay one dollar, to be recovered by the proper township superintendent before any justice of the peace of the proper county; which shall be applied to the repairs of such bridge.

[Acts 1885, p. 74. In force July 18, 1885.]

Bridges in Cities and Towns.

Sec. 4. All bridges, the estimated costs of which shall exceed five hundred dollars, to be built within the corporate limits of any city or town within this state, shall be built by the board of county commissioners in the same manner and paid for out of the same funds that other bridges without such corporate limits of such town or city are by law built and paid for.

[1855, p. 18. In force August 17, 1855.]

Willful Injury.

Sec. 12. If any person shall willfully injure any such bridge, he shall, for every such offense, forfeit treble the damages legally ascertained, to be recovered by the township superintendent as provided in the preceding section.

Abandoned Bridges—Repairing.

Sec. 13. Whenever any bridge company has abandoned or may abandon any bridge, or when the right to take toll has expired or may expire, by limitation of the charter thereof, it shall be lawful for the board of commissioners of the county in which such bridge may be situate, to require the same and the grades leading thereto, to be repaired, if they shall deem that the public good requires it; and for that purpose shall possess all the powers that are given by this act to the county commissioners for building and repairing bridges. And the said board of commissioners may cause toll to be charged on any such bridge or bridges, as in other cases; or such commissioners may, at their discretion, authorize the bridge company whose charter or right to take toll has expired, to repair such bridge and grade, and take such rates of toll as such commissioners may from time to time fix for that purpose.

Exemptions From Toll.

Sec. 14. All persons going to or returning from any election, place of religious worship, or attending a funeral, shall be exempt from paying toll for crossing any of the toll bridges contemplated in this act.

BRIDGES OVER CANALS.

AN ACT to regulate the mode of proceeding against canal companies for failing to construct, build, repair, or supply bridges at such places across such canal as said canal crosses any state or county road or street of a town.

[Acts 1852, p. 92. Approved November 6, 1852.]

Bridges Over Canals—Suit.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That whenever, by virtue of any law of this state, it shall be the duty of any canal company to construct, build, re-build or repair any bridge across the canal of such company, at any point where such canal crosses any state or county road or street of a town; or to supply the place of such bridge across the same as may have fallen down or floated away; and it shall become necessary to bring a suit against such company for failing to construct, build, re-build, repair, or supply any such bridge, the suit may be brought in the circuit court of the county in which the bridge should have been constructed, built, re-built, repaired or supplied; and the process may be issued against such company, and served upon it in the county in which the president of such company may reside or be found, or in which the officer upon whom it is necessary to serve process may reside or be found.

Title of Suit.

SEC. 2. When the suit is brought against such company for failing to construct, build, re-build, repair, or keep up, or supply the place of a bridge upon a state or county road, the suit shall be brought in the name of the board of commissioners of the county in which the road is where the bridge should have been constructed, built, or rebuilt, or kept in repair; and when the suit is brought for failing to construct, build, re-build, or repair a bridge at a place where such canal is crossed by the street of a town, such suit shall and may be brought by the corporate authorities of such town in the corporate name of such town.

Recovery; Application.

SEC. 3. The proceeds of any judgment that may be obtained against such company for failing to construct, build, re-build, or keep in repair any bridge, shall be applied to the construction, building, re-building, or repairing of the bridge that the company ought to have constructed, built, re-built or repaired.

Bringing of Suit; Who By.

SEC. 4. If such company has failed to comply with its duty as to constructing, building, re-building, or keeping in repair the bridge aforesaid, it is hereby made the duty of the several boards of county commissioners and town authorities to cause the proper suit to be instituted.

OFFENSES CONCERNING BRIDGES.

AN ACT concerning public offenses.

[Acts 1905, p. 584. Approved March 10, 1905. In force April 15, 1905.]

Drawbridge—Failure to Keep Light.

SEC. 645. Whoever maintains any drawbridge across any navigable stream in this state, during the season of the navigation of such stream, without placing at night a light on each side of the draw or passway of such bridge, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars.

Obstructing Navigable Streams.

SEC. 646. Whoever erects, maintains or continues any artificial obstruction in or across the bed or channel of any navigable stream, the bed or channel whereof may not have been surveyed, and sold as land by the United States, shall, on conviction, be fined not less than five dollars, nor more than five hundred dollars for each week such artificial obstruction shall have been maintained or continued.

Maintaining Bridge Without Draw.

SEC. 647. Whoever constructs or maintains a bridge across any river in this state, navigable by steamboats, without making or providing a draw upon such bridge of a width of not less than five feet larger than the width of the largest steamboat that usually navigates such river, and so as to admit the passage of any such steamboat through the same without any unnecessary obstruction or detention, shall, on conviction, be fined not less than fifty dollars nor more than five hundred dollars.

Leaving Swing-Bridge Open.

SEC. 648. Whoever opens or moves any swing-bridge, located across any canal, feeder, river or stream within the limits of this state, whether such opening or moving is with or without the pur-

pose of passing the same with any water craft, boat, raft, or other floating object, and fails or neglects to shut and replace the same without unnecessary delay, so as to afford a free passage thereon as soon as such water craft, boat, raft, or other floating object, in case of the passage thereof, shall have passed such bridge, shall, on conviction, be fined not less than five dollars nor more than twenty-five dollars.

Injury to Bridge.

SEC. 649. Whoever purposely, carelessly or negligently runs any water craft, boat, raft, log or other floating object against any swing bridge mentioned and specified in the preceding section, so as in any manner to injure such bridge, or for the purpose of forcing the same open, shall, on conviction, be fined not less than five dollars nor more than twenty-five dollars for every such offense.

Opening Canal Locks.

SEC. 650. Whoever unnecessarily opens or causes to be opened and shut any lock, paddle, culvert or water gate of any canal, or drives any spike, nail, pin or wedge into any such gate, or in any manner interferes with the free use thereof, or places upon or takes from the tumble or regulating weir of any lock, any device placed there to increase or diminish the flow of water over such tumble or weir, shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not more than three months.

LEGALIZING CONSTRUCTION OF BRIDGES.

AN ACT entitled an act legalizing the action of boards of commissioners in the erection of bridges in certain counties and authorizing the payment therefor, and declaring an emergency.

[H. 463. Acts 1907, p. 384. Approved March 9, 1907.]

County Commissioners—Legalizing Act.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That in all cases where a bridge has heretofore been erected to replace a bridge destroyed by floods, and where an indispensable public necessity had been declared for the erection of such bridge, and where such bridge has been erected under authority of the board of commissioners of such county, without advertisement for bids, and without plans, estimates and specifica-

tions therefor having been theretofore filed in the office of the auditor of such county, and where the cost of such bridge, when completed, does not exceed three thousand three hundred eighty-eight and 40-100 ($3,388.40) dollars. And where such bridge has been completed and accepted by such board of commissioners of any such county, and is now being used by the public, and where there was no actual fraud in the construction thereof, the action of such board of commissioners of any such county in so constructing such bridge is hereby legalized, and where the proper appropriation has heretofore been or may hereafter be made by the county council of such county and the allowance of the claim for such construction by such board of commissioners of any such county, the auditor of such county is hereby authorized to draw his warrant in payment therefor, and the treasurer of such county is hereby authorized to pay the same upon proper presentation out of the said fund so appropriated: *Provided,* That nothing in this act shall be so construed as to affect any such bridge so constructed prior to January 1st, 1904.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in force and effect from and after its passage.

CUTTING WEEDS AND BRIARS.

AN ACT concerning the cutting down and destroying of briars, thistles, burrs, docks and other noxious weeds by owners of lands along public highways.

[Acts 1897, p. 122. Approved March 3, 1897. In force April 14, 1897.]

Land Owners to Cut and Destroy Weeds on Contiguous Highways.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That all land owners through or along whose lands public highways are laid out and extended, shall, between the first day of July and the twentieth day of August in each year, cause all briars, thistles, burrs, docks and other noxious weeds growing along said highway and contiguous to their lands, to be cut down and destroyed for the length and distance the said highway shall extend along or through their lands.

Credit on Road Tax.

SEC. 2. Any land owner through or along whose lands public highways are laid out and extended, who shall in compliance with

section 1, of this act, cut down and destroy for the length and distance the said highway shall extend along or through his lands all briars, thistles, burrs, docks and other noxious weeds growing along said highway, or contiguous thereto, shall be allowed for such work or service the sum of one dollar and twenty-five cents per day, eight hours to constitute a day, and proportionate thereto; the work to be done under the direction of the supervisor in charge of said road district, and to be credited upon his road taxes as other work is credited.

Supervisor May Hire Weeds Cut and Destroyed.

SEC. 3. That any such land owner who neglects, or refuses, after the twentieth day of August in each year, to comply with the requirements specified in first section of this act, the supervisor in charge of said road district shall hereby be empowered to secure the services of any resident property owner of said road district to cut down and destroy such briars, thistles, burrs and docks and other noxious weeds, said resident property owner to be allowed for such work or service the sum of one dollar and twenty-five cents per day, eight hours to constitute a day, and proportionate thereto, and to be credited upon his road taxes as other work is credited.

CANADA THISTLES.

AN ACT concerning public offenses.

[Acts 1905, p. 584. Approved March 10, 1905. In force April 15, 1905.]

Canada Thistles—Allowing to Grow.

SEC. 627. Any person who shall knowingly allow Canada thistle or thistles to grow and mature, or shall allow any Canada thistle or thistles to grow until they or any of them become of the length of six (6) inches, measuring from the surface of the soil to the end of the tip of the stem above the surface of the ground, upon his, her or their land, or upon any land which they shall occupy or have under their charge and control; and every supervisor of roads or other officer, having charge of or control over highways, who shall knowingly allow any Canada thistle or thistles to grow or mature, or grow to the length of six (6) inches as above defined, in any public highway, street or alley over which such supervisor or officer has supervision; and every section boss, roadmaster or other officer of any railroad having charge of or control over such railroad property, who shall knowingly allow Canada thistle[s] or any Canada thistle to grow and mature, or to grow to the length

of six (6) inches as above defined, on any lands held, owned or used by said company or by any person operating such railroad, depot or station grounds, as right of way or otherwise, for the portion of said railroad over which such section boss, roadmaster or other officer has supervision, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined, for the first offense, in any sum not more than one ($1) dollar and for each subsequent offense in any sum not more than ten ($10) dollars.

Complaint to Supervisor.

SEC. 627a. If any resident in any township of this state shall make complaint to any road supervisor in the township in which such resident may live that any owner or occupant of land (as described in section 627 of this act), in the said road supervisor's district, is allowing Canada thistle to grow (as defined in section 627 of this act), it shall be the duty of the said road supervisor to notify the said owner or occupant of said land to within five (5) days cut the said thistles off below the surface of the ground. Any owner or occupant of land, after having been notified as aforesaid, who shall fail to perform the duties required of him by the preceding section and by section 627a of this act, shall be guilty of the offense described in section 627 of this act and liable to the penalties provided therefor.

Failure of Supervisor—Township Trustee or Mayor.

SEC. 627b. Any supervisor who shall fail to perform the duties required of him by this act shall be guilty of the offense described in section 627 of this act and liable to the penalties therefor: *Provided,* That in case any road supervisor or other officer having charge of any public street or highway in this state, shall be guilty of allowing Canada thistles to grow upon any public highway, road, or street (as described in section 627 of this act). it shall be the duty of the township trustee in case the offense shall be committed outside of the limits of any incorporated town or city of this state; or in case it shall be inside the limits of any incorporated town or city, it shall be the duty of the mayor or president of the board of trustees of such town or city to perform the duties required of the road supervisor in section 627a of this act.

Convictions—Fee for Supervisor.

SEC. 627c. For every conviction under this act brought about by a road supervisor or other officer whose duty it shall be to enforce the provisions hereof, he shall receive five ($5) dollars, to be taxed as other costs in the case.

Grain Containing Thistles.

SEC. 628. Whoever knowingly sells or barters any seed or any grain of any kind whatever, containing Canada thistle's seed, shall, on conviction, be fined not less than twenty dollars nor more than two hundred dollars.

AN ACT concerning Canada thistles and thistles, the cutting of the same, providing for expense of cutting, tax, and method of collection.

[H. 202. Acts 1907, p. 50. Approved February 21, 1907.]

Canada Thistles—Supervisor—Duties.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be the duty of road supervisors in this state, in addition to their other duties, when any person has made complaint of them, that there is growing on the premises of any land owner or resident tenant within their districts, Canada thistles to the length of six inches, measuring from the surface of the soil to the end on [or] tip of the stem above the surface of the ground, to enter upon any such premises without anywise being a trespasser, and if they ascertain such report to be true, they shall notify the owner, occupant, tenant or agent of said land to within five days cut the said Canada thistles off below the surface of the ground, and if said owner, occupant, tenant or agent can not be found, then by posting a notice reciting that such Canada thistles are growing in such manner on such premises, describing the same, and demanding that they be cut in such manner as herein provided, in the township where such land or premises are located, and in a public place therein, for five days, and at the expiration of such time if said Canada thistles have not been removed as provided, then in that event, such road supervisors or supervisor shall report the matter to the trustees of the township wherein such land or premises are located, and make a certified statement in writing of any and all action taken, and that said Canada thistles have not been cut off as demanded in the said notification or notice.

Township Trustees—Duties.

SEC. 2. It is hereby made the duty of the township trustees of this state, immediately upon receiving the road supervisor's report and statement as mentioned in the preceding section, to cause such Canada thistles to be cut off as herein and heretofore provided in this act, and existing laws on the subject. Such trustee or trustees shall assign the work of cutting and removal of such thistles to the road supervisor making report, and if he decline then by employing one resident of the township to do such work, and the trustee, supervisor or person employed for the purpose, may enter upon the lands, premises and property of another to perform such work and labor, and in the discharge of said duty shall in nowise be deemed or held as a trespasser.

Compensation—Lien on Land.

SEC. 3. Township trustees, with the advice of the advisory board, and under such rules as they may prescribe, are hereby authorized to pay for such work and labor performed in the cutting of thistles under the provisions of this act, the sum of twenty cents an hour, for the time actually employed in the said work. When said work has been performed, the person doing the same shall file his itemized bill for such work in the office of the trustee of the proper township, and when the same has been approved or allowed, the trustee of the township shall certify such cost or expense of such work with a description of the farm or premises on which said labor was performed to the auditor of the county in which said lands, property or premises are situated, and upon the filing of such trustee's certificate in the office of the auditor, such sums or sum for labor performed, shall be a lien against the lands, property or premises named or described in such certificates, as the lands on which such Canada thistles are cut.

County Auditor—Duties.

SEC. 4. That county auditors, upon receiving and filing such trustees' certificates as named in this act, shall immediately place said amounts on the tax duplicate of the county as a special tax against such lands, property or premises, and such special tax shall be due at the next taxpaying time, and shall be collected for the proper township or townships, the same as other state, county or township taxes are collected, including penalties, forfeitures, and sales.

Towns—Act Applies.

SEC. 5. This act shall also apply to towns in this state, and the duties required to be performed by road supervisors, shall be performed by the marshal or street commissioner in said towns, and the duties required to be performed by township trustees shall be performed by the board of trustees of said town.

RAILROADS MUST CUT WEEDS ON RIGHT OF WAY.

AN ACT concerning the cutting and destroying of thistles, burrs, docks, and other noxious weeds by railroad corporations.

[Acts 1889, p. 146. Approved March 6, 1889. In force May 10, 1889.]

Weeds, Must Cut.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That all railroad corporations doing business in this

state shall, between the first day of July and the twentieth day of August in each year, cause all thistles, burrs, docks and other noxious weeds growing on lands occupied by them in any city, village or township of this state, to be cut down and destroyed.

Penalty—Suit and Costs.

SEC. 2. In case any railroad company shall refuse or neglect to comply with the requirements specified in the first section of this act, such company shall be liable in a penalty of twenty-five dollars, to be prosecuted for in an action of debt by any person feeling himself aggrieved. Said suit may be brought before any justice of the peace in the county, who shall require of the complainant surety to pay costs in case he fails to maintain his action. Summons may be served on any agent or officer of the company.

CHAPTER 179.

AN ACT to amend section one (1) of an act entitled "An act to amend section one (1) of an act entitled 'An act to amend sections six (6) and eight (8) of an act entitled "An act concerning township business," approved February 27, 1899, and fixing the date upon which shall begin the terms of office of township trustees and township assessors, and repealing all laws and parts of laws in conflict therewith,' approved March 11, 1901," approved March 5, 1909. Repealing all laws in conflict therewith and declaring an emergency.

[H. 544. Approved March 10, 1913, p. 487.]

Township Trustee—Meeting of Advisory Board—Emergency Expenditures for Road Machinery, etc.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section one (1) of the above entitled act be amended to read as follows: Section 1. Upon the special call of the township trustee, or the chairman of the advisory board, or of a majority of the members of a township advisory board, given in writing to the several members of such board, and the township trustee, stating the time, purpose and place of the meeting, said board may, if a quorum be present, by the consent and action of a majority of all members of the board present, determine the necessity and whether an emergency exists for the expenditure of any sum or sums not included in the existing estimates and levy. In the event that such emergency exists, the board may authorize by special order entered and signed upon record, the trustee to borrow a sum or sums not included in the existing estimates and levy to meet the demands for any road machinery, road dredge, bridges, dredge or dredges, or township machinery for hoisting road materials, or other township business; and at the next annual session of the board a levy shall be made, the same to be credited to the fund for

which such expenditure is made to cover the debt so created: *Provided, however,* That if at the annual or special meeting of said board it shall be found indispensably necessary to provide for the construction of a school building, purchase of any road machinery, road dredge, bridges, dredge or dredges or township machinery for hoisting road materials, or other township business, the cost of which necessity exists, or the proportionate cost thereof will be in excess of the sum or sums available therefor out of the funds of the annual levy, then and in that event, such advisory board may authorize the trustee of such township to issue township warrants or bonds to pay for such debts so created, and if the same be for a joint graded high school building the township warrants shall be only for the proportional part or share of the debt for which the township shall be liable; the said township warrants or bonds to run for a period of not exceeding ten (10) years, and they shall bear interest at a rate not exceeding six per centum per annum, which bonds or township warrants shall be sold by the trustee, with the assent of the advisory board of the said township, for not less than par, and such advisory board shall annually levy sufficient taxes to pay at least one-tenth of such township warrants or bonds, with the annual interest thereon; the trustee of such township shall apply the annual tax levy collected each year from such levy on the township warrants, bonds and the interest thereon. In no event shall a debt of the township be created except by the advisory board of such township, and in the manner herein specified, and any payment of any debt not so authorized from the public township funds by a trustee shall be recoverable upon the bond of the trustee, in a suit, which it is hereby made the duty of the advisory board of such township, to institute and prosecute in the name of the state, for the use of the said township. And said board is hereby empowered to appropriate, and the township trustee shall pay out of the township funds, a reasonable attorney's fee for such purpose. And if the said advisory board on the written demand of any taxpayer, fails for thirty (30) days to bring suit, then such taxpayer or any other taxpayer of the said township may bring the action in the name of the state for the use of the said township: *Provided, however,* That nothing in this act shall affect any pending litigation.

Repeal.

SEC. 2. All laws and parts of laws in conflict with any of the provisions of this act are hereby repealed.

Emergency.

SEC. 3. Whereas, an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

FENCES.

AN ACT concerning inclosures, trespassing animals, and partition fences.*

[I. R. S. 1852, p. 292. Approved June 4, 1852. In force May 6, 1853.]

What Deemed a Lawful Fence.

SECTION 1. *Be it enacted by the general assembly of the state of Indiana,* That any structure or hedge, or ditch in the nature of a fence, used for purposes of inclosure, which is such as good husbandmen generally keep, and as shall, on the testimony of skillful men, appear to be sufficient, shall be deemed a lawful fence.

[1877 S., p. 42. Approved and in force March 5, 1877.]

Animals Breaking Over.

SEC. 2. If any domestic animal break into an inclosure or wander upon the lands of another, the person injured thereby shall recover the amount of damage done: *Provided,* That in townships where, by order of the board of county commissioners, said domestic animals are permitted to run at large, it shall appear that the fence through which said animal broke was lawful; but where such animal is not permitted to graze upon the uninclosed commons, it shall not be necessary to allege or prove the existence of a lawful fence in order to recover for the damage done.

[1 R. S. 1852, p. 276. Approved June 4, 1852. In force May 6, 1853.]

If Before Trial Owner Tenders Costs and Damages, Plaintiff Not to Recover Costs.

SEC. 3. If, before trial, the owner of such trespassing animal shall have tendered to the person injured, any costs which may have accrued, and also an amount in lieu of damage, which shall equal or exceed the amount of damages afterwards awarded by the court or by a jury; or shall offer, in writing, to confess judgment for the same; and if, notwithstanding the said injured person, refusing the said offer, cause the trial to proceed, he shall pay costs, and recover only the damages awarded.*

* The common law imposes on the owner of domestic animals the duty of keeping them on his own land, or within inclosures, and he becomes a wrong-doer if any of them escape or stray off upon the lands of another person. This, as a general rule, is the law in this state. Lafayette, etc., Railroad Co. v. Shriver, 6 Ind. 141; Page v. Hollingsworth, 7 Ind. 317; Indianapolis, etc., Railroad Co. v. Kinney, 8 Ind. 403; Same v. Caldwell, 9 Ind. 398; Meyer v. Dodd, 9 Ind. 290.

* At common law proprietors of land are not bound to fence against each other, each being bound to keep his cattle on his own land. I. & C. R. R. Co. v. Kinney, 8 Ind. 402.

Animals Breaking Over May Be Taken Up as Estrays.

SEC. 4. When any domestic animal shall break into the inclosure of any person, such person, without regard to the season of the year, may take up such animal as if an estray, whether the owner be known to him or not, and shall proceed as provided by law of estrays, except as herein provided.

The owner of domestic animals not naturally inclined to commit mischief, as cows, oxen, and the like, is not liable for any injury committed by them to the person or personal property, unless it can be shown that he previously had notice of their mischievous propensity, or that the injury was attributable to some neglect on his part. Page v. Hollingsworth, 7 Ind. 317.

But as the propensity of such animals to rove is natural and notorious, the owner is bound, at his peril, by the common law (and the rule, as a general one, is applicable in this state), to confine them on his own land; and if they escape and commit a trespass on the land of another, unless through the defect of fences which the latter ought to repair, the law deems the owner himself a trespasser, and holds him liable, though he had no notice in fact of such propensity. Ibid.

It is competent for the Legislature to declare that an action shall not be maintained for a trespass committed by cattle in favor of lands not securely fenced. Meyers v. Dodd, 9 Ind. 290; Indianapolis, etc., Railroad Co. v. Caldwell, 9 Ind. 397.

A person who chases a horse out of his field with a large, fierce dog, commits an unlawful act, and is liable for any injury to the horse which the act occasions. Amick v. O'Harra, 6 Blackf. 258.

This section applies only to outside fences. Meyers v. Dodd, 9 Ind. 290.

The parties to a partition fence are equally bound to maintain such fence; either may repair it, and enforce contribution under the statute: and when neither does so, the common law rule, that the owner of cattle is bound to confine them on his own land, applies between them. Ibid.

Notice.

SEC. 5. Such taker up shall, within twenty-four hours after such taking up, give notice to the owner of such animal, if known, and he can be immediately found.

Assessment of Damages.

SEC. 6. Such taker up, before posting or advertising, shall procure, from two disinterested freeholders, an examination and assessment of damages, with a certificate of same, including reasonable pay for such assessment.

Damages, Etc., to Be Specified in Notice.

SEC. 7. The fact of trespass in the inclosure of the taker up and the damages assessed, including pay for assessing, shall be specified in such notice or advertisement.

Owner to Prove Property, Pay the Costs and Damages, Etc.

SEC. 8. The owner shall not be entitled to demand the trespassing estray from such taker up, unless he proceed, as in case of estrays, to prove his property and pay costs allowed in the case of estrays, and also damages and the costs of assessment.

Owners may Have Trial Before the Expiration of Five Days, Etc.

SEC. 9. If the owner of the estray, at any time within five days after he has had notice of assessment of damages, controvert, before any justice of the township, the amount of damages, or deny such trespass, the cause shall be docketed for trial.

Jury; Judgment; Execution.

SEC. 10. Either party may demand a jury; and such trial shall proceed, and judgment be rendered and execution issue as in other cases.

Damages.

SEC. 11. If damages be assessed on such trial, such damages and all costs must be paid by the owner before he recover his property.

Judgment Against the Taker Up.

SEC. 12. If the verdict, or finding, be that the trespass was not committed by the property taken up, judgment shall go against the taker up for all costs and for such damages as may be assessed.

Taker Up May Retain Damages.

SEC. 13. When a trespassing estray is sold, the taker up, in addition to the usual costs and allowances in the case of estrays, may retain out of the value of such estray, the damages sustained by such trespass and the costs of their assessment.

If the Fence Is Unlawful, Animals Shall Be Released, Etc.

SEC. 14. In case of trespassing animal taken up, if the court or jury find the fence not lawful, the animal shall be released; and the occupant of the inclosure shall pay costs and damages.*

* Atkinson v. Mott, 102 Ind. 431.

Lanes.

SEC. 22. No person inclosing land that has heretofore lain open shall join his fence to that of another, except by consent. If no consent be given, each shall give one-half the width of a lane, or a reasonable distance for the erection of a second fence.†

† See Partition Fences.

[1857, p. 5. Approved March 4, 1857. In force August 24, 1857.]

Party Ceasing to Use the Land Not to Take the Fence Away Until He gives Six Months' Notice.

SEC. 23. When any party shall cease to use his lands, or shall lay open his inclosures, he shall not take away any part of his fence which forms a partition fence between him and the inclosure of any other person, until he shall have first given six months' notice to such person or persons as may be interested in the removing of said fence, of his intention to remove the same.

[1 R. S. 1852, p. 292. Approved June 4, 1852. In force May 6, 1853.]

Fences Upon the Land of Another by Mistake May Be Removed.

SEC. 24. When any person shall, by mistake, erect any fence on the land of another, and when, by a line legally determined, that fact is ascertained, such person may enter upon such premises and remove the fence which he may have made thereon, within six months after such line has been run as aforesaid, upon his first paying, or offering to pay, to the other party reasonable damages for injury in passing over the soil in making such removal.

Not to Expose a Crop.

SEC. 25. When the fence to be removed forms any part of a fence inclosing a field of the other party, with a crop thereon, such first person shall not remove the same, so as to expose such field, until such crop shall have been gathered and removed or secured from injury, or might with reasonable diligence so have been gathered and secured; then he may immediately remove such fence and materials, although more than six months have elapsed since such division line was run.

FENCING OVERFLOWED LANDS.

AN ACT providing for the enclosure of land subject to overflow, and declaring an emergency.

[Acts 1875, p. 104. Approved and in force March 1, 1875.]

Petition.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That whenever the owners of real estate, in any county of this State, representing the major portion of the lands improved and used for the purposes of cultivation, an area that is definitely described by sections or subdivisions of sections, or sufficiently described by metes and bounds, which lands are situated upon or near any stream or water-course, lake, pond or marsh subject to overflow therefrom, shall petition the board of commissioners of the proper county asking the permission to inclose such area under one general fence, with swinging gates on all public highways crossed, setting forth the kind of fence and gates desired, it shall be the duty of such board to appoint three reputable householders of the county, not related by blood or marriage to any of the parties interested, as viewers, who first being sworn to faithfully and fairly perform the services required of them, shall proceed, within a reasonable time after their appointment, by giving publication of their intention, to be given by posting up written or printed notices, describing the premises in the several townships, where the same may be situated, to inspect such premises, and to make an assessment against the owners of such real estate, in consequence of such improvement, which shall be apportioned between them severally, according to the number of acres of improved land owned by each, and the benefits accruing to them severally on account of such improvement.

Report of Viewers—Order for Construction.

SEC. 2. After having performed the duties required of them in the first section of this act, said viewers shall, as soon as practicable, submit a report in writing to the board of county commissioners of their doings, together with a tabular statement of the assessment made by them, which shall be deemed sufficient authority for said board of county commissioners to issue an order for the erection or construction of such fence and gates, in the absence of any remonstrance against the same; but if any remonstrance shall be made, said board may order or refuse to order the erection of such fence or gate in their discretion. If the order shall not be made in consequence of any mistake or error committed by the viewers, other viewers may be appointed to perform the same service and report same.

Assessments, Collection.

SEC. 3. A certified copy of the report of the viewers, as approved by the board of commissioners, shall be filed in the office of the county auditor, and thirty days after such fence and gate shall have been constructed, any person interested therein may make affidavit before such auditor showing what property owners have not paid their several assessments, and the sums assessed against the persons delinquent shall be entered upon the tax duplicate, by the auditor, to be collected by the treasurer as other taxes are collected, and when so collected shall be paid out to the property owners who have voluntarily paid the cost of such fence, in proportion to the amount of their several assessments.

Survevor, Pay.

SEC. 4. The viewers appointed under the provisions of this act, may, if necessary, employ a surveyor, who shall be paid for his services such sum as may be agreed upon. It shall be the duty of the board of commissioners to fix the compensation of such viewers for their services, and the entire cost and expenses of the proceedings shall be taken and regarded as a part of the cost of the erection of said fence and gates, and shall be collected in the same manner.

When Stock May Be Allowed to Run Upon Such Enclosed Premises.

SEC. 5. It shall not be lawful for any person, having land enclosed by such fence, to allow stock to run at large upon said enclosed premises before the 25th day of December of any year, nor after the 15th day of March of any year.

Emergency.

SEC. 6. Whereas an emergency exists in several counties of this state for the immediate taking effect of this act, therefore the same shall take effect and be in force from and after its passage.

SPITE FENCE.

AN ACT concerning fences erected to annoy adjoining owners.

[Acts 1909, p. 270. Approved February 27, 1909. In force April 15, 1909.]

Nuisance—Spite Fence.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That any fence or other structure in the nature of a

fence unnecessarily exceeding six feet in height, maliciously erected or maintained for the purpose of annoying the owners or occupants of adjoining property, shall be deemed a nuisance.

Damages and Abatement.

SEC. 2. Any such owner or occupant injured either in his comfort or the enjoyment of his estate by such nuisance, may have an action for the damages sustained thereby and for the abatement of such nuisance and all other remedies for the prevention of nuisances, and the provisions of law concerning actions for nuisance shall be applicable thereto.

REMOVAL OF RAILS OR OTHER PROPERTY FROM OVERFLOWED LAND.

[1 R. S. 1852, p. 318. Approved June 17, 1852. In force May 6, 1853.]

Rails Removed by Overflow; Recovery.

SECTION 1. When the fence rails or other property of any person or persons in this state shall be removed by high water and lodged upon the lands of another, it shall be lawful for the owner or owners thereof to proceed, within sixty days thereafter, upon the premises where such property may be lodged; and in case the proprietor of said lands shall refuse to deliver up the same, the parties shall each select an arbitrator, who shall examine or hear evidence upon all the circumstances and facts, and determine the case: *Provided,* That if they can not agree they shall select an umpire, and the decision of a majority of them shall be final between the parties.

Arbitrators to Be Sworn.

SEC. 2. Before said arbitrators shall proceed as above provided they shall be sworn to discharge their duties faithfully, impartially and according to law by some person having power to administer oaths.

Notice.

SEC. 3. When two or more persons shall claim any property as aforesaid, they shall give notice to all interested of the time and place of such arbitration; and, upon hearing all the facts and circumstances in the case, the arbitrators shall award to each such a proportion of said property as they may deem reasonable and just.

Entering, to Remove; Not a Trespass.

SEC. 4. It shall not be considered a trespass for any person to go upon the lands of another for the purposes in this act mentioned: *Provided,* That such persons shall go upon such route as will do the least possible injury to said lands if it be practicable and convenient.

[1877 S., p. 43. Approved and in force March 14, 1877.]

Recording Fence-Marks.

SECTION 1. It shall be the duty of the county commissioners to furnish a blank book to the recorder of the county, to be paid for out of the county fund, in which the county recorder shall keep a record of marks of rails and plank fencing which may be adopted by freeholders of such county: *Provided,* That it shall not be obligatory on the board of county commissioners to procure such book of record until petitioned to do so by twenty freeholders of the county over which they preside.

Recorder's Fees.

SEC. 2. The county recorder shall receive twenty-five cents for the recording of each mark, and no more, to be paid for by the person or persons adopting and having such mark recorded; and the recorder shall in no instance record two marks which may exactly correspond.

Reclamation of Marked Fencing.

SEC. 3. Any person or persons having his or her rails or plank fencing marked and recorded as herein provided, should such rails or plank fencing be removed by high water and overflow off of their lands to the lands of another person or persons, shall have the privilege of removing such rails and plank fencing on to their own premises at any time of the year: *Provided,* That they shall be held responsible and pay all damages that may be done to growing grain on the land from which such rails or plank fencing may be removed, or over which they may be hauled.

PARTITION FENCES.

AN ACT declaring what are partition fences and providing for the building, repairing and maintenance of such fences and conferring jurisdiction upon township trustees in the matter of partition fences in cases therein specified and providing for liens for making, maintaining, and repairing partition fences, and providing remedies for the enforcement of such liens, for collection of fees due township trustees rendered under this act and declaring an emergency.

[Acts 1897, p. 184. Approved March 6, 1897.]

What Are Partition Fences.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That all fences now constructed and used by adjoining land owners as a partition fence or fences unless otherwise specially agreed upon by such land owners shall be deemed partition fences and shall be built, maintained, repaired and paid for as hereinafter provided.

Cost Apportioned—Refusal to Join.

SEC. 2. That all partition fences shall be built and kept in repair at the cost of the several land owners whose lands are enclosed, separated by such fences, equally according to the number of rods or protection [proportion] thereof such land owner may have along such line of fence whether his, her or their title be in fee simple or a life estate. That if any land owner as above defined shall fail or refuse to compensate for building or repairing his, her or their proportion of fence, any land owner interested in such fence may give notice in writing to such defaulting party, his agent, or tenant, to compensate for building or repairing their proportion of such fence and if after twenty (20) days' notice to such party, agent or tenant such fence is not compensated for, built or repaired, such interested land owner may notify the township trustee of such township in which such fence is situated: *Provided,* That where the fence sought to be established or repaired [is] on the township line, in that case the owner or owners shall notify the trustee of the adjoining township to the one [in] which the owner lives, of the improvement he or they desire made, and such trustee shall have jurisdiction of such matters, unless disqualified as in this act provided, to estimate or compensate for such fence, the cost of building such fence or the cost of repairing the same as the case may be; and within a reasonable time after being so called upon so to do such trustee shall make out a written itemized statement of the due proportion of such defaulting land owner, of compensation, the cost of building a new fence, or of making repairs as the case may be, and deliver a copy thereof to

such defaulting land owner, his agent or tenant. *Provided,* That such trustee in estimating the compensation, cost of building a new fence, or repair of any fence shall adopt the plans and material for such fence as is most commonly used by the farmers of such township: *Provided,* That on land subject to overflow posts and wire only shall be used for fencing across such land subject to overflow: *Provided, further,* That if such trustee of such township is disqualified from acting in the premises by reason of relationship to any of the parties interested or is an interested party himself or otherwise disqualified to act, then it shall be lawful for the trustee of any other township who resides nearest to where such fence is situated to act in the premises. *Also, provided further.* That a lawful partition fence shall be a straight board and wire fence or a straight wire or a straight board fence, or a picket or a hedge fence four (4) feet in height, a straight rail fence four and one-half (4½) feet high, a worm rail fence five (5) feet high, and all fences of every structure to be sufficiently tight and sufficiently strong to hold hogs, sheep, cattle, mules and horses.

Trustee to Build; When—Certificate and Lien.

SEC. 3. After the expiration of twenty (20) days of the receipt of the statement herein provided for in section 2 of this act, to be made out by the township trustee aforesaid, if the defaulting land owner, shall not have made compensation, built his share of the fence or made the proper repairs, as pointed out in the statement made by the trustee aforesaid, then said township trustee shall give notice of the letting such work, by written or printed notices, posted in not less than three of the most public places in the township where the fence is located, and shall at the expiration of said notice let said work to the lowest responsible bidder therefor, and take a bond from such successful bidder for the faithful performance of such contract, with sufficient solvent surety to such bond.

Upon the completion of said work under said contract, the township trustee shall give such contractor a certificate properly authenticated, showing the amount of work done, material used, and kind of material used, and the contract price for such work and material, and the whole amount due such contractor, also the amount due the trustee for his services, with a description of the land of the defaulting land owner, and if the sum due is not paid upon demand made upon the defaulting land owner, his agent or tenant the said certificate may be placed on record in the recorder's office in the county in which such fence was constructed or repaired and it is hereby made the duty of the recorder of such county to record the same in the mechanics' lien record of such county and to properly index the same, and for so doing he shall receive a fee of twenty-five cents therefor; and said amount named in said certificate, with the fees due the township trustee shall be a lien upon the real estate described in said certificate from the time of the

commencement of the work for which it was given. And if the same is not paid by the said land owner such lien may be foreclosed at any time within twelve (12) months from the date of recording the same, by such contractor under the same rules and regulations that mechanics' liens are foreclosed and a sale of the real estate made under the same rules and regulations: *Provided,* That the fees due the township trustee for his services shall be separately stated in such payment and remain his property, and if such contractor does not have recorded and foreclosed such lien, the trustee shall have a right to do so, and all payment of fees due the trustee for services rendered under this act must be made to him or his legal representatives.

Trustee Not Personally Liable; Compensation.

SEC. 4. There shall be no personal liability upon the trustee for any contract made under this act, but the contractor shall rely upon his lien exclusively for his compensation and the said trustee shall be allowed the same per diem for services rendered under this act as he is allowed for other services, as trustee of the civil township.

Land Owners Excepted.

SEC. 5. Persons owning land not enclosed by fence to retain stock shall not be required to make or maintain a partition fence.

Liberal Construction.

SEC. 6. That this act shall be liberally construed in favor of the objects and purposes for which it is enacted.

Emergency.

SEC. 7. It is hereby declared that an emergency exists for the immediate taking effect of this act. It shall therefore take effect and be in force from and after its pasasge.

CHAPTER 211.

AN ACT declaring what are partition fences and providing for the building, repairing and maintaining such fences and conferring jurisdiction on the township trustees in the matter of partition fences in cases therein specified and providing for lien for the building, maintaining and repairing of partition fences and providing remedies for the collection of the expenses thereof rendered under this act and repealing all laws in conflict therewith, and declaring an emergency.

[H. 221. Approved March 6, 1911. Acts 1911, p. 515.]

Fences—Partition Fence Defined.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That all fences now constructed and used by adjoining

landowners as a partition fence or fences unless specially agreed upon by such landowners shall be deemed partition fences and shall be repaired, maintained and paid for as is herein provided.

Construction or Repair—Who Shall Build—Trustee.

SEC. 2. That it shall be the duty of all landowners whose lands join and separate said land by a partition fence to be constructed upon the line or lines dividing or separating said lands whether said lands were divided heretofore or may hereafter be divided. In case no division of said partition fence has been made between the landowners for the building or repairing or rebuilding of such partition fence, then in such case the landowner, whose land lies to the east of said fence shall build the north half thereof and the landowner whose land lies to the west of said fence, shall build the south half thereof and if the landowner's land lies north of the fence to be built, rebuilt or repaired he shall build, rebuild or repair the west half thereof, and if the land lies to the south of such fence, such landowner shall build the east half thereof. And if any landowner fails to build, rebuild or repair such fence after receiving notice as is hereinafter provided, the township trustees wherein said land or line is located, shall build, rebuild or repair such fence as is hereinafter provided.

Cost Apportioned—Township Trustee Building.

SEC. 3. That all partition fences shall be built, rebuilt, kept in repair at the cost of the several landowners whose lands are enclosed or separated by such fences equally according to the number of rods or proportion thereof such landowner may have along such line or fence whether his, her or their title be in fee simple, or a life estate. That if any landowner as above defined, shall fail or refuse to compensate for building, rebuilding or repairing his, her or their proportion of fence, any landowner interested in such fence after having built, rebuilt or repaired his proportion of such fence, shall give to the defaulting landowner, his agent, or tenant twenty days' notice to build, rebuild or repair his proportion of such fence as the case may be, and if such defaulting party shall fail to build, rebuild or repair such fence within said time, such landowner shall then notify the township trustee of the township wherein said lands are located of such fact: *Provided*, That where the fence sought to be established, rebuilt or repaired, is on a township line, in such case the owner or owners shall notify the trustee of the adjoining township to the one in which the defaulting party lives of the improvement he or they desire made, and such trustee shall have jurisdiction of such matter, unless disqualified as hereinafter provided, estimate the costs for such fence, building, rebuilding or repairing the same as the case may be, and within a reasonable time after being notified such trustee shall make out a statement and notify

such defaulting party of the probable cost of building, rebuilding or repairing such fence, as the case may be, and if after twenty days, said fence is not built, rebuilt or repaired by such defaulting landowners, such trustee of such township shall build, rebuild or repair such fence as the case may be: *Provided*, That such trustee shall use only the materials for such fences as is most commonly used by the farmers of such community: *Provided, further*, That if such trustee of such township is disqualified to act, then it shall be lawful and it shall be the duty of the trustee of the adjoining township, residing nearest to where such fence is situated to act in the premises upon receiving a notice so to do by any landowner interested therein: *also Provided, further*, That a lawful partition fence shall be a straight board and wire fence or a straight wire or a straight board fence or a picket fence four feet high, a straight rail fence four and one-half feet high, a worm rail fence five feet high and all fences of every structure to be sufficiently tight and strong to hold hogs, sheep, cattle, mules and horses: *Provided, further*, That if a stream crosses the division line between two landowners, necessitating additional expense in the maintenance of the part over such stream, if such owners cannot agree upon the proportionate share of each, the township trustee shall appoint three disinterested citizens who shall apportion the partition fence to be built by each landowner: *Provided, further*, That any trustee related to any of the parties interested or is an interested party himself, then it shall be lawful for the trustee of any other township residing nearest to where such fence is situated to act in the premises.

Trustee's Statement of Cost—Collection.

SEC. 4. That as soon as such trustee has had such fence built, rebuilt or repaired, he shall make out a statement in duplicate of the actual cost incurred by him in the building, rebuilding or repairing of such fence, adding to such statement three dollars per day for every day actually employed by him in performing the service required herein, one to be handed to the landowner affected by the work and the other to be filed in the auditor's office of the county wherein said fence is located and where the landowner resides affected by said work and by said auditor placed on the tax duplicate against the lands of the landowner affected by said work, and to be collected as taxes are collected and when so collected to be paid to the township trustee filing said statement. The fees taxed by the township trustee shall be his sole property when collected.

Personal Liability—Trustee Exempt.

SEC. 5. There shall be no personal liability upon the township trustee for any contract he may make by reason of this act for the

building, rebuilding or repairing of fences as herein provided, but the contractor shall receive his pay from the township funds, the same to be reimbursed when said contract price is paid into the county treasury.

Construction of Act.

SEC. 6. This act shall be liberally construed in favor of the objects and purposes for which it is enacted and shall apply to all lands whether enclosed or unenclosed, cultivated or uncultivated, wild or wood lot: *Provided*, That this section shall not apply to any land whose assessed value is five dollars or less per acre or exempt from taxation.

Emergency.

SEC. 7. It is hereby declared that an emergency exists for the immediate taking effect of this act, therefore the same shall be in effect from and after its passage.

PARTITION HEDGES.

AN ACT concerning the cutting of hedge or other live fences along the lines dividing lands owned by different persons within the State of Indiana, providing penalties for their violation, and repealing all laws in conflict herewith.

[Acts 1895, p. 61. Approved February 28, 1895. In force June 5, 1895.]

Hedges to Be Cut and Trimmed.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That all hedges or other live fences along the lines dividing lands owned by different persons in the State of Indiana, shall be cut and trimmed down to the height of not exceeding five feet and to a width of not exceeding three feet once in each calendar year.

Notice to Be Given to Trim Hedge.

SEC. 2. It shall be the duty of any township trustee, upon complaint in writing, signed by the complainant, who must be an owner or owners of land adjoining said fence, that any person owning any hedge or other live fence upon a line dividing lands owned by different persons, has neglected to cut and trim said hedge or other live fence as heretofore provided, to examine within five days after receiving such notice all hedges or other live fences so complained of, and if there shall be any hedge or other live

fence that has been complained of, that has not been cut and trimmed as heretofore provided, he shall give the owner or owners thereof written notice to cut and trim such hedge or other live fence and to remove the brush to his own land within thirty days after receiving such notice, such notice to be served by reading the same to said owner or owners, or by leaving a copy of the same at his usual place of residence: *Provided*, That if the owner or owners of lands divided by such hedge or other live fence be not residents of the townships where such hedge or other live fence is located, such notice shall be served by mailing a copy of the same to said owner or owners directed to his or their last known post-office, and if such owner or owners, their agents, or tenants do not proceed to cut and trim such fences and remove the brush as heretofore provided, that such trustee shall immediately after the expiration of thirty days, cause such hedge or other live fence to be cut and trimmed, as heretofore provided, and the brush removed to the owner's land; such trustee shall recover all expenses incurred in cutting and trimming such hedge or other live fence and removing the brush as before provided, by suit against the owner or owners of the lands on which such hedge or live fence is situated, before any justice of the peace of the township in which such hedge or other live fence is situated, or they may bring suit in the circuit or superior court of the county in which such hedge or other live fence is situated, to collect such expenses, and any judgment so recovered shall be without relief from valuation or appraisement laws.

Prosecuting Attorney to Prosecute.

SEC. 3. It is hereby made the duty of the prosecuting attorney to prosecute such suit in the name of the State of Indiana on relation of such township trustee, for which service the prosecuting attorney shall receive the sum of ten dollars to be collected as part of the cost of such suit.

Compensation.

SEC. 4. Any township trustee, who shall fail or neglect to perform his duties as laid down in this act, upon complaint of any freeholder in said township, shall be fined not more than twenty-five dollars nor less than five dollars.

Repeal.

SEC. 5. All laws and parts of laws conflicting herewith are hereby repealed.

HEDGES ALONG HIGHWAYS.

AN ACT concerning the cutting of hedge or other live fences along highways within the State of Indiana, providing penalties for the violation thereof; repealing all laws or parts of laws in conflict therewith.

[Acts 1891, p. 46. Approved and in force February 26, 1891.]

Hedge or Live Fences.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That all hedge or live fences along the line of any highway within the State of Indiana shall be cut and trimmed down to the height of not to exceed five feet, once in each calendar year.

Duties of Supervisors or Superintendents of Gravel Roads.

SEC. 2. It shall be the duty of the supervisor of each road district, or the superintendents of gravel roads, between the first day of January and the first day of April of each year to examine all hedge or live fences along the highways in their road districts and if there shall be any hedge or live fences along such highways which have not been cut and trimmed down to the height of not to exceed five feet in the last calendar year immediately preceding the first day of January, they shall give the owner or owners thereof written notice to cut or trim such hedge or live fence and to burn the brush trimmed therefrom, such notice to be served by reading the same to said owner or owners, or by leaving a copy of the same at his or their usual place of residence: *Provided*, That if said owner or owners thereof be not residents of the townships where such hedge or live fence is located, said notice shall be served upon his or their agent or tenant if there be any residing in said township and if there be no agent or tenant of said owner or owners in said township then such notice shall be served by mailing a copy of same to said owner or owners directed to his or their last known postoffice and if such owner or owners, their agents or tenants, do not proceed to cut and trim such fences and burn the brush trimmed therefrom within ten days thereafter, in the manner heretofore provided, then such supervisor or gravel road superintendent shall immediately cause such fences to be cut and trimmed down to the height of not to exceed five feet and burn the brush trimmed therefrom, and such supervisor or gravel road superintendent shall recover all expenses incurred in cutting and timming such hedge or live fences and burning the brush trimmed therefrom by suit against the owner or owners of the lands on which said hedge or live fence is situated before any justice of the peace of the township in which such hedges are situated, or they may bring suit in the circuit or superior court of the county in which such hedge or live fence is situated, to collect such expenses and any judgment so recovered shall be without relief from valuation or appraisement laws.

Duty of Prosecuting Attorney—Fee.

SEC. 3. It is hereby made the duty of the prosecuting attorney to prosecute such suit in the name of the State of Indiana on relation of such supervisor or gravel road superintendent, for which service the prosecuting attorney shall receive a fee of ten dollars, to be collected as a part of the costs of such suit.

Penalty for Failing to Enforce the Provisions of This Act.

SEC. 4. Any road supervisor or gravel road superintendent who shall fail or neglect to perform his duties as laid down in this act shall be fined not more than twenty-five dollars or less than five dollars.

Laws Repealed.

SEC. 5. All laws or parts of laws conflicting herewith are hereby repealed.

FENCING RAILROADS.

AN ACT requiring railroad corporations, and other persons operating and controlling railroads, to fence their right of way and railroad track, and to construct barriers and cattle-guards at certain public road and highway crossings, and to maintain and keep the same in repair, and prescribing remedies and penalties for failing to do so.

[Acts 1885, p. 224. Approved April 13, 1885. In force July 18, 1885.]

Railroads Shall Construct Fences.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That any railroad corporation, lessee, or assignee, or receiver, or other person or corporation running, controlling or operating, or that may hereafter construct, build, run, control or operate any railroad into or through this state, shall, within twelve months from the day of the taking effect of this act, as to those already completed, and within twelve months from the date of the construction and completion of any part of a line of road hereafter constructed, erect, build, construct and thereafter maintain fences, which may be constructed of barbed wire, on both sides of such railroad throughout the entire length, completed within the State of Indiana, sufficient and suitable to turn and prevent cattle, horses, mules, sheep, hogs, or other stock from getting on such road, except at the crossings of public roads and highways, and within such portions of cities and incorporated towns and villages as are or may hereafter be laid out and platted into lots and blocks, and shall, also, in like manner and within the time hereinbefore

prescribed, constructed where the same has not already been done, and thereafter maintain at all public road and highway crossings now existing or hereafter established, barriers and cattle-guards suitable and sufficient to prevent cattle, horses, sheep, hogs and other stock from getting on such railroad: *Provided, however,* when such fences and cattle-guards are not made as herein provided, or when such fence or cattle-guards are not kept in repair, such railroad corporation or persons operating the same, shall be liable for all damages which may be done by the agents, employes, engineers, or cars of such corporation or person operating the same, to any such cattle, horses, sheep, hogs or other stock thereon: *Provided, however,* That such railroad corporation, or other person operating the same, shall not be required to fence such railroad track through unimproved and uninclosed lands, and the provision of this act shall not apply to such parts and portions of any such railroad which runs through unimproved and uninclosed lands, but when such lands become improved and inclosed on three sides the same shall apply, and such railroad corporation or person operating the same shall be required to fence the same under the provisions of this act within six months from the date of such inclosure.

Owner of Lands to Give Notice—May Build.

SEC. 2. If such railroad corporation, lessee, assignee, receiver, or other person or corporation aforesaid neglect or refuse to construct such fence, barriers or cattle-guards as provided in the preceding section, the owner of any lands abutting on the lands or right of way of said railroad shall have the right (after giving thirty days' notice in writing of his intention so to do, to be served upon the nearest freight receiving and shipping agent employed by the company, or person controlling and operating said railroad) to enter upon the land, right of way and track of said railroad, and may build, erect and construct such fences, barriers and cattle-guards as therein provided for, so far as the lands of such landowner abuts on the land and right of way of such railroad, and when he has completed the same he may present for payment to the agent of such corporation or person controlling and operating such road, at the nearest shipping station to the tract of land so fenced, an itemized statement verified by the affidavit of such person, or his agent, of the expenses thereof, including material and labor, and if such corporation or person so operating said road neglect or refuse for sixty days to pay said account, such land owner may recover in any court of competent jurisdiction the reasonable value of such fence, barrier and cattle-guards from said corporation or person operating the same, together with reasonable attorney's fees: *Provided, however,* If such railroad corporation or other person operating the same so liable for the value of such fence, cattle-guards and barriers, shall, within said sixty days, make a tender of a sum of money to such person in satisfaction of such claim or liability against such corporation or person, and such per-

son to whom such tender is made shall refuse to accept the same in satisfaction of such claim, and shall sue for the recovery of the value of such fence, barriers and cattle-guards, and shall not recover more than the amount so tendered, he shall not in such action recover attorney's fees.

Road to Keep in Repairs—Owner of Land May Give Notice.

SEC. 3. When such fence, barriers and cattle-guards are completed, such railroad corporation, lessee, assignee, receiver, or other person or corporation operating and controlling the same shall keep the same in good repair and sufficient to answer the purposes for which constructed, and if any such corporation, lessee, assignee, receiver, or other person or corporation shall permit any part of the fence, barrier or cattle-guards to get out of repair so that it will not turn cattle, horses, mules, sheep, hogs or other stock, the owner of the land abutting upon the land or right of way of such railroad may notify the agent, in writing, for receiving and shipping freight at the nearest station to the tract of land so owned by such person, that a portion of the fence is out of repair, stating where the same is out of repair, and the probable cost of making such repair, and if such railroad corporation. lessee, assignee, receiver or other person or corporation, shall fail for thirty days to make or commence such repairs, such abutting land-owner shall have the right to enter upon the land, right of way and railroad track, and make such repairs, and shall furnish a sworn itemized account of the cost of such repairs, including the material necessarily used and the labor, to the agent aforesaid, and if such bill is not paid within sixty days from the time the same was so furnished to such agent, the said party so making such repairs may recover the reasonable value of such repairs so made, from such railroad corporation, lessee, assignee, receiver, or other person or corporation so controlling and operating the same, together with reasonable attorney's fees: *Provided,* That in case the said railroad corporation or person operating the same, liable for such repairs, shall, within said sixty days, tender to such person so making such repairs a sum of money in satisfaction of such repairs made by him, and such person shall refuse to accept the same, and shall sue for the recovery of the value of such repairs, and shall not recover more than was so tendered, he shall not recover attorney's fees in such suit.

Stock Killed; Liability For.

SEC. 4. Nothing in this act contained shall in any manner affect or change the liability of railroad corporations, or of the assignees, lessees, or receivers of such corporations, for stock killed or injured upon their railroads; but such liability shall exist and be governed by laws now in force the same as if this act had never been passed.

Gates, When Owner of Land to Maintain.

SEC. 5. All gates and bars at farm crossings shall, in the absence of a contract or agreement to the contrary, be constructed and maintained and kept closed by the owner of such farm crossing.

RAILROAD CROSSINGS.

AN ACT to authorize owners of tracts of land separated by the right of way of a railroad company, to construct wagon and driveways over such right of way, and providing that the railroad companies owning or operating such railroads shall not be liable in certain cases, for animals killed or injured on such railroad, and declaring an emergency.

[Acts 1889, p. 148. Approved and in force April 18, 1889.]

Land Owners May Construct and Maintain Wagon and Driveway on Railroad Right of Way.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That owners of tracts of land separated by the right of way of a railway company, or owner of a tract or tracts of land separated by the right of way of a railway company from a public highway or road, lying and situated immediately contiguous to and adjoining said right of way may, if such right of way has been or shall hereafter be acquired by condemnation and appropriation, or by purchase or donation, construct and maintain wagon and driveways over and across such right of way leading from one of such tracts to another on the opposite side of such right of way, or leading from such tract or tracts of land on one side to the highway on the other side of the right of way, at any point most convenient to such owner. For this purpose such owner may enter upon such right of way and construct such embankment or make such excavation on one or both sides of the track of such railway as may be necessary to establish easy grades from one tract of land to the opposite tract or highway, and may spike planks on the ties of such railway on the line of such way for the space of the width of such way, of such thickness as not to be elevated above the top of the rails of such railway, and may also bridge the gutters at the sides of such railway track in such manner as not to obstruct the flow of water therein: *Provided,* The railroad company shall make the crossing. (As amended. Acts 1899, p. 485.)

Gates.

SEC. 2. When such railroad is fenced on both sides at the point where such way is constructed, such owner shall erect and maintain substantial gates in the line of such fence or fences across such way, and keep the same securely locked, when not in use by himself or employes.

Railroad Liable.

SEC. 3. If animals are killed or injured on the track of such railroad by the cars or locomotives thereof, the company owning or operating such railroad, shall not be liable to pay damages therefor if such animal entered upon the track of such railroad through such gates, unless it shall be proved that such killing or injury was caused by the negligence of the servants of the company owning or operating such railroad.

INTERURBAN ROADS, FENCING.

AN ACT requiring any corporation, lessee or assignee or receiver or other person or corporation owning, controlling or operating, or that may hereafter construct, build, run, control or operate any interurban railroad, traction line, or suburban railway within the State of Indiana using electricity for a motive power, either by overhead trolley system, storage battery, or third rail system, or otherwise, to fence their right of way and railroad track and to construct barriers and cattle guards at certain public road and highway crossings and maintain and keep the same in repair, and prescribing remedies and penalties for failing to do so, and providing for the construction of farm crossings and for gates at such crossings, and prescribing remedies and methods by which such farm crossings may be constructed and penalties for failing to do so, and declaring an emergency.

[Acts 1903, p. 426. Approved and in force March 10, 1903.]

Interurban Railroads, Fencing Required.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That any corporation, lessee or assignee or receiver or other person or corporation, owning, controlling or operating, or that may hereafter construct, build, run, control or operate any interurban railroad, traction line, or suburban railway within the State of Indiana, using electricity for a motive power, either by overhead trolley system, storage battery or third rail system, or otherwise, shall within one year from the taking effect of this act, as to those already constructed, and as to those hereafter constructed within one year from the date of the completion of any part of such line and putting the same in operation, erect, build, construct and thereafter maintain fences on both sides throughout the entire length of such road completed within the State of Indiana, sufficient and suitable to turn and prevent cattle, horses, mules, sheep, hogs or other stock from getting on such road, except at crossings of public roads and highways and within such

portions of cities and incorporated towns and villages as are or may hereafter be laid out and platted into lots and blocks, and shall also in like manner and within the time hereinbefore prescribed construct, where the same has not already been done, and thereafter maintain at all public roads and highway crossings now existing or hereafter established barriers and cattle-guards suitable and sufficient to prevent cattle, horses, sheep, hogs and other stock from escaping to or getting on such road: *Provided, however,* When such fences and cattle-guards are not made as herein provided, or when such fence or cattle-guards are not kept in repair, such railroad corporation or persons operating the same shall be liable for all damages which may be done by the agents, employes, servants or cars of such corporation, or persons operating the same, to any such cattle, horses, sheep, hogs or other stock thereon: *Provided,* That such corporation, lessee or assignee or receiver or other person operating the same shall not be required to fence such railroad track through unimproved and unenclosed lands and the provisions of this act shall not apply to such parts of any such railroad which runs through unimproved and unenclosed lands: *Provided, further,* That when any such railway is built in any public highway, the provisions of this act shall not apply thereto, and where any such railway is built on a right of way which is in part within any highway the provisions of this act shall not apply to such portion of said right of way which is within such highway, and no fence shall be built hereunder on the side of said railroad next to such highway: *Provided, further,* That nothing in this act shall affect or change any existing contract with reference to the building or maintenance of any fence along any such railway.

On Company's Failure, Land Owner May Build.

SEC. 2. If such corporation, lessee, assignee, receiver or other person or corporation aforesaid, neglect or refuse to construct such fence, barriers or cattle-guards as provided in the preceding section, the owner of any lands abutting on the land or right of way of such railroad on either side thereof shall have the right, after giving thirty days' notice in writing of his intention so to do, to be served upon any conductor in charge of any car operated upon such road, to enter upon the land, right of way and track of said railway and may build, erect and construct such fences, barriers and cattle-guards as therein provided for, so far as the lands of such land owner abut on the land and right of way of such railroad, and where such railroad is constructed along and parallel with a public highway such land owner shall have the right not only to construct such fence on the side of such railroad abutting upon his land, but to also construct and build such fence on the side of such railway track adjacent to and adjoining the highway so paralleled, and when he has completed the same he may present for payment to the conductor in charge of any car being

operated upon such road, an itemized statement, verified by the affidavit of such person, or his agent, of the expenses thereof, including material and labor, and if such person or corporation so operating said railroad neglect or refuse for sixty (60) days to pay said account such land owner may recover, in any court of competent jurisdiction, the reasonable value of such fence, barrier and cattle-guards from said corporation or person operating the same, together with reasonable attorney's fees.

Keeping in Repair.

SEC. 3. When such fence, barriers and cattle-guards are completed, such railroad corporation, lessee, assignee, receiver or other person operating and controlling the same, shall keep the same in good repair and sufficient to answer the purposes for which constructed, and if such corporation shall permit any part of the fence, barrier or cattle-guard to get out of repair so that it will not turn cattle, horses, mules, sheep, hogs or other stock, the owner of the land abutting upon the land or right of way of such railroad may notify any conductor in charge of any car being operated upon said road, in writing, that a portion of the fence, or a cattle-guard or barriers, is out of repair, stating where the same is out of repair, and the probable cost of making such repair, and if such railroad corporation, lessee, assignee, receiver or other person or corporation shall fail for thirty (30) days to make such repairs, such abutting land owner shall have the right to enter upon the lands, right of way and railroad track, and make such repairs, and shall furnish a sworn, itemized account of such repairs, including material necessarily used and the labor done, to any conductor in charge of any car on said railroad, and if such bill is not paid within thirty (30) days from the time the same is furnished to such conductor, the said party making such repairs may recover the reasonable value of such repairs so made, from such railroad corporation, lessee, assignee, receiver or other person or corporation so controlling and operating the same, together with reasonable attorney's fees.

Killing of Stock, Liability.

SEC. 4. Nothing in this act contained shall in any manner affect or change the liability of railroad corporations, or of the assignees, lessees or receivers of such corporations for stock killed or injured upon their railroad; but such liability shall exist and be governed by laws now in force the same as if this act had never been passed.

Driveways Across Tracks.

SEC. 5. The owners of tracts of land separated by the right of way of any such railroad company, or owner of a tract or tracts of

land separated by the right of way of such railway company from a public highway or road lying and situated immediately contiguous to and adjoining said right of way, may require such railway company or person controlling and operating the same to construct and maintain wagon and driveways over and across such right of way leading from one of such tracts to another on the opposite side of such right of way, or leading from such tract or tracts of land on one side to the highway on the other side of the right of way, at a point most convenient to such owner, and upon the failure of such railway company or person operating the same to so construct such wagon or driveways as aforesaid, after notice having been given by the owner of such lands for a period of thirty days to any conductor in charge of any car upon such road, such owner shall have the right to and may enter upon such right of way and construct such embankment or make such excavations on one or both sides of the track as may be necessary to establish easy grades from one tract of land to the opposite tract or highway, and may spike planks on the ties of such railway on the line of such way for the space of the width of such way of such thickness as not to be elevated above the top of the rails of said railway and may also bridge the gutters at the sides of such railway track in such manner as not to obstruct the flow of the water therein. Such owner shall furnish an itemized statement, verified by the affidavit of such owner, of the bill of the cost of such crossing, including material and labor, to any conductor in charge of any car on said road, and if such corporation, company or person shall fail for a period of thirty days thereafter to pay said bill, such owner may recover the reasonable cost of the construction of such way from said company, corporation or person in any court of competent jurisdiction, including a reasonable attorney fee for plaintiff's attorney.

When Land Owner to Erect Gates.

SEC. 6. When such railroad is fenced on one or both sides at the point where such way is constructed such abutting land owner shall erect and maintain substantial gates in the line of such fence or fences across such way, and keep the same securely fastened and closed when not in use by himself or his employes.

Emergency.

SEC. 7. Whereas an emergency exists for the immediate taking effect of this act, and the same shall be in effect from and after its passage.

CHAPTER 89.

AN ACT concerning the care and maintenance of cemeteries, providing penalties for the violation thereof and the means for securing relief from the duties imposed by this act.

[S. 160. Approved March 6, 1913, p. 262.]

Cemeteries—Care and Maintenance.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it is hereby made the duty of every corporation, organization, association or individual owning and having the control and management of any public cemetery located in any township in this state to keep the same in a respectable condition by fencing where there is no sufficient fence and by keeping the fences in good repair and by keeping the weeds mowed.

Penalty.

SEC. 2. Any such corporation, organization, association or individual failing, neglecting or refusing to keep any such cemetery in a respectable condition as herein provided, shall upon conviction thereof be fined in any sum not exceeding one hundred dollars ($100) for each year such cemetery is so neglected after the taking effect of this act.

CHAPTER 110.

AN ACT concerning the care of cemeteries, and providing for the management, maintenance and taking care of public cemeteries, and repealing an act entitled "An act concerning the care of cemeteries, and repealing an act entitled An act providing for the management, maintenance and taking care of public or private cemeteries, approved March 4, 1905, and declaring an emergency," approved March 6, 1911.

[H. 111. Approved March 6, 1913, p. 290.]

Cemeteries—Abandoned—How Maintained.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That any cemetery located in any township, or within any city or town within such township, which cemetery is abandoned, or has been or shall be hereafter deeded to such townships, and not under the control or management of any organization or association or individual whose duty it is to care for and maintain such cemetery, shall be under the care and supervision of the township trustee of such township.

Township Trustee—Care of.

SEC. 2. It shall be the duty of the township trustee to care for and maintain in a respectable condition, by fencing, when there is

no fence, by keeping the weeds, briars and brush mowed and cleaned up in all public cemeteries located within his township, or within any city or town located within such township, which are wholly or in part abandoned or unused and are not under the supervision of any association, organization or individual whose duty it is to care for the premises.

Repeal.

SEC. 3. An act entitled an act concerning the care of cemeteries, and repealing an act entitled an act providing for the management, maintenance and taking care of public or private cemeteries, approved March 4, 1905, and declaring an emergency, approved March 6, 1911, is hereby in all things repealed.

Emergency.

SEC. 4. An emergency existing for the immediate taking effect of this act, the same shall be in force and effect from and after its passage.

ESTRAY AND ARTICLES ADRIFT.

AN ACT regarding estrays and articles adrift.

[1 R. S. 1852, p. 276. Approved June 16, 1852. In force May 6, 1853.]

Notice of Taking Up.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That any person who shall take up any estray horse, mule, ass, sheep, hog, cattle or goat, or any other article of value adrift, shall, within five days thereafter, advertise the same in writing in three of the most public places in the township where such property is taken up, stating the time of taking up, and giving particular description.

Appraisement.

SEC. 2. If within fifteen days after taking up, the owner shall not have claimed such estray property, the taker up shall report the same to some justice of the peace in the township, who shall issue his warrant to three householders of the neighborhood, not of kin to the taker up (unless they can not be otherwise procured), directing any two of them to appraise such property, whose duty it shall be to appraise the same, and make report in writing to such justice, clearly describing the property, and their valuation thereof; and shall, under oath, declare that said appraisement and description were made without partiality, favor or affection.

[Acts 1855, p. 97. Approved February 14, 1855. In force August 17, 1855.]

Compensation.

SECTION 1. Each and every appraiser appraising property, as in the preceding section provided, shall have for his service as such appraiser the sum of fifty cents, to be paid as other expenses in taking up estrays.

[1 R. S. 1852, p. 276. Approved June 4, 1852. In force May 6, 1853.]

Taker Up to Make Oath That Marks Have Not Been Altered.

SEC. 3. The taker up shall, at the time of making such report, make oath before such justice that the marks, brands or appearance of such property have not been altered by him, nor by any other person, to his knowledge, since the same became estray or adrift, other than may, in his written report, have been stated.

Animal Over Two Years of Age to Be Taken to Pound.

SEC. 4. The taker up of any unclaimed estray horse, mule or ass above the age of two years shall take the same to the pound of the proper county (if there be one), and keep the same therein from eleven o'clock a. m. until three o'clock p. m. of the first day of each of the two succeeding terms of the circuit court after the taking up of such estray.

Copy of Description to Be Transmitted to Clerk.

SEC. 5. Any justice to whom estray property may have been reported, shall, within ten days, transmit to the clerk of the circuit court a copy of the description and valuation thereof, together with the proper fee as hereinafter provided, and said clerk shall enter such description and appraisement in a book to be kept for that purpose.

Property Exceeding $10 in Value to Be Advertised.

SEC. 6. Estray property exceeding in value ten dollars, and property adrift exceeding in value ten dollars, shall be advertised in some newspaper of the county, if there be one; if not, in the paper in the county nearest thereto; and the clerk shall forward to the printer a copy of the register thereof, marked outside, "estray paper," together with a fee of one dollar, out of which the printer shall pay postage.

All Property Not Worth Over $12.

SEC. 7. In all cases in which the provisions of this act shall have been complied with, property adrift not exceeding in value twelve dollars, unclaimed or unproven by the owner within ninety days after taking up, and other estray not exceeding in value ten dollars, and unclaimed or unproven by the owner within one day after taking up, shall vest in the taker up.

Property Exceeding $12 in Value.

SEC. 8. Property taken up adrift, the appraised value of which exceeds twelve dollars, not claimed and proven within ninety days after taking up, or animals estray other than horses, mules or asses, the appraised value of which exceeds ten dollars, not claimed and proven within six months after taking up, shall be reported by the taker up to some justice of the peace of the proper township within five days after the expiration of the time specified herein.

[Acts 1855, p. 98. Approved March 1, 1855. In force August 17, 1855.]

Such Property to Be Sold, and Proceedings Therein.

SEC. 9. Such justice shall issue his warrant to some constable to sell the same at auction, giving ten days' notice in writing of the time and place of sale, describing the property to be sold; and such constable shall, within five days after such sale, return such order and proceeds of sale to said justice, retaining one dollar for his services therein, and said justice shall immediately pay over to the county treasurer the proceeds of sale, after deducting the proper amount to be paid to the taker up, as provided in this act, fifty cents for his own fee, and five cents for every mile that it is necessary for him to travel in making said return, and shall take from the treasurer duplicate receipts, one of which he shall file in the office of the clerk of the circuit court, and one with the county auditor.

[1 R. S. 1852, p. 276. Approved June 4, 1852. In force May 6, 1853.]

Property Exceeding $20 in Value.

SEC. 10. Any horse, mule or ass taken up under the provisions of this act, the appraised value of which exceeds twenty dollars, and which shall remain unclaimed or unproven at the expiration of twelve months from the time of taking up, shall be by the taker up delivered to the sheriff of the proper county on the first day of the term of the circuit court next, after the expiration of such time, and shall be, by said sheriff, sold at public sale, and after retaining one dollar for his services, and paying to the taker up his charges, as provided in this act, said sheriff shall pay the proceeds of such sale to the treasurer of the county within five days thereafter, taking from the treasurer duplicate receipts, and filing one of the same in the clerk's office and the other with the county auditor.

Credit Given.

SEC. 11. All sums paid to the county treasurer under the provisions of this act shall be by him entered to the credit of the county, under the head of estray fund.

Compensation.

SEC. 12. The taker up shall be entitled for taking up, for each horse, mule or ass, one dollar; each head of neat cattle, fifty cents; each sheep, goat or hog above six months old, ten cents; but when the owner reclaims and proves his property before the same is posted the taker up shall only be allowed one-half the above reward.

Compensation.

SEC. 13. The taker up of property adrift shall be allowed a reasonable sum, to be determined by some justice of the peace of the township; but either the claimant or the taker up thereof may, if they choose, have a jury to determine what amount shall be just and reasonable for taking up and taking care of such property; the justice, constable and jury shall be allowed the same fees as in other cases.

What Fees to Taker Up.

SEC. 14. The taker up of property exceeding three dollars in value shall pay to the justice at the time of reporting, fifty cents for the justice, fifty cents for the clerk, and one dollar for the printer, where printing is required, but if under three dollars, the justice shall make no return to the clerk, and his fee shall be twenty-five cents only.

Register of Estrays.

SEC. 15. The clerk shall keep a register of estrays; where several estrays or articles adrift are taken up by one person, there shall be only one entry and one advertisement, one fee of the clerk, and one of the justice.

Compensation of Taker Up for Keeping Property.

SEC. 16. Upon property sold or reclaimed, the taker up shall be allowed such compensation for keeping such property as shall be, by the justice before whom the proper proceedings are had, deemed just and reasonable, and such taker up shall keep account of the time any estray animal is kept by him, and make oath to the same.

When the Animal Is Worked.

SEC. 17. If any animal is taken up under the provisions of this act, and worked by the taker up, a reasonable compensation shall be allowed for the services of said animal, to be deducted from the keeping; the taker up if required shall verify under oath the time he has worked said animal.

Owner May Have Property Before Sale by Proving It.

SEC. 18. At any time before sale the owner may have his property by proving the same before the justice of the township

land separated by the right of way of such railway company from a public highway or road lying and situated immediately contiguous to and adjoining said right of way, may require such railway company or person controlling and operating the same to construct and maintain wagon and driveways over and across such right of way leading from one of such tracts to another on the opposite side of such right of way, or leading from such tract or tracts of land on one side to the highway on the other side of the right of way, at a point most convenient to such owner, and upon the failure of such railway company or person operating the same to so construct such wagon or driveways as aforesaid, after notice having been given by the owner of such lands for a period of thirty days to any conductor in charge of any car upon such road, such owner shall have the right to and may enter upon such right of way and construct such embankment or make such excavations on one or both sides of the track as may be necessary to establish easy grades from one tract of land to the opposite tract or highway, and may spike planks on the ties of such railway on the line of such way for the space of the width of such way of such thickness as not to be elevated above the top of the rails of said railway and may also bridge the gutters at the sides of such railway track in such manner as not to obstruct the flow of the water therein. Such owner shall furnish an itemized statement, verified by the affidavit of such owner, of the bill of the cost of such crossing, including material and labor, to any conductor in charge of any car on said road, and if such corporation, company or person shall fail for a period of thirty days thereafter to pay said bill, such owner may recover the reasonable cost of the construction of such way from said company, corporation or person in any court of competent jurisdiction, including a reasonable attorney fee for plaintiff's attorney.

When Land Owner to Erect Gates.

SEC. 6. When such railroad is fenced on one or both sides at the point where such way is constructed such abutting land owner shall erect and maintain substantial gates in the line of such fence or fences across such way, and keep the same securely fastened and closed when not in use by himself or his employes.

Emergency.

SEC. 7. Whereas an emergency exists for the immediate taking effect of this act, and the same shall be in effect from and after its passage.

CHAPTER 89.

AN ACT concerning the care and maintenance of cemeteries, providing penalties for the violation thereof and the means for securing relief from the duties imposed by this act.

[S. 160. Approved March 6, 1913, p. 262.]

Cemeteries—Care and Maintenance.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it is hereby made the duty of every corporation, organization, association or individual owning and having the control and management of any public cemetery located in any township in this state to keep the same in a respectable condition by fencing where there is no sufficient fence and by keeping the fences in good repair and by keeping the weeds mowed.

Penalty.

SEC. 2. Any such corporation, organization, association or individual failing, neglecting or refusing to keep any such cemetery in a respectable condition as herein provided, shall upon conviction thereof be fined in any sum not exceeding one hundred dollars ($100) for each year such cemetery is so neglected after the taking effect of this act.

CHAPTER 110.

AN ACT concerning the care of cemeteries, and providing for the management, maintenance and taking care of public cemeteries, and repealing an act entitled "An act concerning the care of cemeteries, and repealing an act entitled An act providing for the management, maintenance and taking care of public or private cemeteries, approved March 4, 1905, and declaring an emergency," approved March 6, 1911.

[H. 111. Approved March 6, 1913, p. 290.]

Cemeteries—Abandoned—How Maintained.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That any cemetery located in any township, or within any city or town within such township, which cemetery is abandoned, or has been or shall be hereafter deeded to such townships, and not under the control or management of any organization or association or individual whose duty it is to care for and maintain such cemetery, shall be under the care and supervision of the township trustee of such township.

Township Trustee—Care of.

SEC. 2. It shall be the duty of the township trustee to care for and maintain in a respectable condition, by fencing, when there is

AN ACT concerning the branding and drifting of trees, logs or other forms of timber and providing for punishing crimes and misdemeanors relating to the same, and declaring an emergency.

[H. 47. Acts 1901, p. 506. Approved March 11, 1901.]

Drift in Streams—Compensation—Taking Up Drift.

SECTION 1. That every person who shall take up and secure any boats, fleets of timber, rafts, platforms, saw logs or other logs or trees prepared for the purpose of sale, or any cross or railroad ties, boards, planks, staves, heading or other timber prepared for market, the property of another, found adrift in the waters of this state on which there is no boom or other arrangement provided by the owner for the preservation thereof below the point at which they are so found, whether the same have thereon any brand or not, shall be entitled to receive from the owner thereof a compensation for so much thereof as he shall deliver to such owner as follows: For each freight boat or other heavy boats, two dollars per ton for all cargo; for each jack-boat, skiff or canoe, one dollar; for each fleet of timber, fifty dollars; for each raft of not less than forty logs, fifteen dollars; for each platform of not less than ten logs, four dollars; for each saw log or other log or tree prepared for sale, fifty cents; for each cross or railroad tie, fifteen cents; for boards or planks caught in rafts or large body, one dollar per thousand feet board measure for twenty thousand feet or less quantity; for over twenty thousand feet, fifty cents per one thousand feet board measure; but if the same be not in rafts, but loose and scattered, five dollars and fifty cents per one thousand feet board measure; and for staves and heading, four dollars per one thousand pieces for all that are merchantable, to be paid for by the owner thereof, if required, upon the delivery of the same to him. The taker-up shall have a lien upon the property taken up by him for said fees and for his charges as hereinafter provided. If the owner of any such fleet, raft, platform, saw log or other log or tree prepared for the purpose of sale, or any cross or railroad tie, board, plank, stave, heading or other timber prepared for market, shall fail to pay the sum charged thereon, within sixty days from the day they were taken up, they shall be sold at the instance of the person to whom such charges are due, by a constable, sheriff or other officer of the county in which said property was taken up, at the court house door at public auction to the highest bidder, upon thirty days' written or printed notice thereof, giving the time and place of sale and a written or printed description of the property and any marks or brands thereon, posted at the front door of the court house of the county in which the sale is to be made and at two other public places in the county where the property is located. It shall be the duty of the constable or other officer making said sale, to pay to the taker-up his legal fees and charges after deducting his own commission, which shall be the same as though he had sold the same property under execution; and if there shall be any ex-

cess of sale money over and above said charges and fees, he shall pay said residue to the clerk of the circuit court in the county in which the sale is made and take up his receipt therefor, and for failure to perform his duties under this act the constable or other officer shall be liable on his official bond to the party aggrieved. If the owner do, within one year from the date of the sale, appear before the county judge of the county where the money is deposited with the clerk and establish his right to the satisfaction of said court to said money, it shall, upon the order of the county judge, be paid over to the said owner by the clerk aforesaid; otherwise it shall be paid into the common school fund of this state: *Provided*, Nothing in this act shall be so construed as to permit the taking up of any fleet of timber, raft or platform, saw log, or other log or tree prepared for the purpose of sale, or any cross or railroad tie, board, plank, stave, heading or other timber prepared for the market above any boom or other arrangement made by the owner for the preservation thereof. (As amended. Acts 1913, p. 316.)

Fees For Keeping Timber.

SEC. 2. Any person who shall take up any fleet, raft or platform, as hereinafter provided for, shall in addition to the foregoing fees, be entitled to a reasonable compensation for keeping and caring for said property taken up by him, not exceeding the following rates: For each fleet, four dollars per day; for each raft, one dollar per day; for each platform, fifty cents per day.

Fees For Keeping Other Timber.

SEC. 3. If any person who shall take up any saw log or other log, or tree, prepared for sale as herein provided for, and the same remains in his or their possession over thirty days from the time of taking the same up before the owner thereof offers to pay said charges, he or they shall be entitled to charge, in addition to the fee for taking the same up, twenty-five cents for every saw log or other log or tree prepared for sale, kept in his or their possession as aforesaid.

Penalty For Secreting or Grounding.

SEC. 4. If any taker up of any property, as described in this act, shall secrete the same, or allow said property so taken up by him to get aground so that he can not immediately, upon the demand of the owner thereof, of his agents, put the same afloat, or if he shall fail to put the same afloat upon demand as aforesaid, he shall not be allowed to collect or receive any compensation for the taking up or the caring for the same, and shall in addition thereto be responsible to said owner for the value of such property as if it were afloat.

Brand May Be Adopted.

SEC. 5. Any person, firm or corporation, dealing in timber, in any form, shall be called and known as a timber dealer, and as such may adopt a brand in the manner and with the effect hereinafter provided.

Timber, What Constitutes.

SEC. 6. For the purpose of this act the word "timber" shall mean and include trees, whether standing, down or prepared for sale, saw logs and all other logs, cross and railroad ties, boards, planks, staves and heading, and other timber cut or prepared for market.

Brand, Manner of Adopting.

SEC. 7. Every such dealer desiring to adopt a brand may do so by the execution of a writing in form and effect as follows: Brand —Notice is hereby given that I (or we, as the case may be) have adopted the following brand in my (or our, etc.) business as timber dealer or dealers, to wit: (Here insert words, letters, figures, etc., constituting the brand, or if it be any device other than words, letters or figures, insert the fac simile thereof). Dated this .... day of ....., A. D. .... The said writing shall be acknowledged or proved for record in the same manner as deeds are acknowledged or proven, and shall be recorded in the office of the clerk of the county in which the principal office or place of business of such timber dealer may be. A copy thereof shall be posted up at the place where the principal business is done, and one at the courthouse door in the county where the business is carried on, and at the public places in the county.

Penalty for Using the Brand of Another Person.

SEC. 8. Every land so adopted shall, from the date hereof, be the exclusive trademark of the person, firm or corporation adopting the same, and any other person, firm or corporation knowingly using or attempting to use such brand, without the written consent of the owner thereof, shall be guilty of a misdemeanor and fined not less than twenty dollars nor more than one hundred dollars.

Timber, How Stamped With Brand.

SEC. 9. The proprietor of such brand shall, in using the same, cause it to be plainly stamped, branded or otherwise impressed upon each piece of timber upon which the same is placed.

Penalty for Fraudulently Marking Timber.

SEC. 10. If any person shall fraudulently place any brand on timber described as aforesaid, not his own, he shall be guilty of a misdemeanor and fined not less than one hundred nor more than

five hundred dollars, and imprisoned in the county jail not less than one nor more than twelve months for each and every such offense.

Penalty for Defacing Brand.

SEC. 11. Any person or persons who shall unlawfully cut out, cancel, obliterate or deface any brand recorded, as provided by this act, which shall have been placed upon the standing timber, saw log or other log or tree prepared for the purpose of sale, or any cross or railroad ties, staves, heading or other timber prepared for market, of another, in this state, shall be deemed guilty of a felony and upon conviction thereof shall be, for each offense, confined in the penitentiary of this state not less than one year nor more than — years.

Penalty for Converting Branded Timber.

SEC. 12. Any person or persons who shall unlawfully take, secrete, cut, saw, split up or destroy any timber branded, as herein provided, or remove same from the main river on which the same was taken up, with the intent to prevent the owner thereof from finding the same, or in any way convert same to his or their own use without the consent of the owner, or who shall receive same, knowing same to have been stolen, shall be deemed guilty of a felony, and, on conviction thereof, be confined in the penitentiary for not less than one nor more than three years.

Sale of Trees to be In Writing.

SEC. 13. No contract for sale of standing trees or standing timber shall be enforcible by action unless the said contract, or some memorandum thereof be in writing signed by the person to be charged or his duly authorized agent.

Branding, Effect.

SEC. 14. Whenever timber shall be branded by the seller, or by another with his consent, with the brand of the purchaser or other person or corporation, then the title to said timber shall at once pass to the person or corporation whose brand is then placed upon it, but this shall not affect the rights of the contracting parties with respect to the payment of the purchase money therefor.

Brands Heretofore Recorded.

SEC. 15. Nothing herein shall affect the validity and effect of all brands and trademarks which shall have been duly adopted and recorded under the provisions of the law in force previous to the passage of this act, but same shall be as valid for all purposes, civil and criminal, as if duly adopted and recorded under the provisions of this act.

When Unbranded Timber to Become Property of the State.

SEC. 16. When any unbranded saw logs, trees, cross-ties or other timber prepared for market, is taken up on any of the streams of this state the same shall be held and disposed of as hereinbefore provided, and the taker up of such timber shall receive as compensation for his services only the fees provided for in section one of this act, and if any taker up of unbranded logs or timber as aforesaid shall unlawfully sell, or in any way appropriate to his or their own use, or shall place any brand upon same without first having same sold as aforesaid, he or they shall be deemed guilty of a felony, and upon conviction thereof, confined in the penitentiary of this state not less than one nor more than three years.

Emergency.

SEC. 17. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

CHAPTER 352.

AN ACT concerning the clearing of drifts and obstructions from small streams.

[H. 435. Approved March 15, 1913. Acts 1913, p. 945.]

Streams—Clearing of Drifts and Obstructions.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That every person, firm or corporation owning lands in the State of Indiana, through which flows any small stream of water, not navigable and not exceeding (90) ninety feet between the banks thereof on said lands shall clean all drifts and obstructions from the channel of such stream on said lands, by burning or cutting and removing such drifts and obstructions from such channel, so as to leave the same free and open for the flow of the water therein, whenever the same shall obstruct the free flow of water. When such stream flows on the line between the lands owned by two or more persons or corporations, such owner or owners of land on each side of such stream shall be required in equal proportions and in like manner to clean out and remove all such drifts and obstructions from the channel of such stream where the same so flows between the lands of such owners. If the obstruction of such stream affects the land of other persons or corporations which do not abut such stream the township trustee after notice by not less than two interested parties shall appoint three disinterested persons to view such land and determine upon the equitable amount each landowner affected should pay or work out in the removal of such obstructions, according to the benefits derived. If any person fails to pay such equitable amount so determined, or work out the amount thereof the township trustee shall cause the amount thereof to be worked

out under his direction in removing such obstruction, and the cost thereof shall be placed upon the tax duplicate, and the same shall be collected as other taxes: *Provided,* That any person aggrieved may appeal to the circuit court of the county. If any township property or roads are affected by such obstruction, one-half of the cost of removing such obstruction shall be paid by the township and the remainder by the owners of the property affected.

ROAD SUPERVISORS TAKE UP STOCK.

AN ACT to regulate the taking up of animals that run at large, and declaring an emergency.

[Acts 1887, p. 38. Approved and in force March 7, 1887.]

Stock Running at Large.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it is hereby made the duty of all road supervisors upon view, or information, to cause all horses, mules, cattle, sheep, goats or swine found running at large upon the roads, commons or uninclosed lands, within their respective districts, which are not authorized to run at large by order of the board of county commissioners, as by law provided, to be impounded, and such other proceedings had as required by the provisions of chapter 11 of the revised statutes of 1881, being an act concerning animals running at large. If any such road supervisor shall fail to perform such duty, he shall be fined not less than one nor more than five dollars for each and every offense, and the trustee of the township is hereby authorized and required to retain any unpaid fines or costs from any sum that may be due and unpaid to such supervisor for services rendered in his official capacity.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in force from and after its passage.

ANIMALS RUNNING AT LARGE

[1879 S., p. 62. Approved March 29, 1879. In force May 31, 1879.]

Power of County Board.

SECTION 1. It shall be the duty of the board of commissioners of the different counties of this state to direct, by an order entered on the order-book of said board of commissioners, what kind of ani-

mals shall be allowed to pasture or run at large on the uninclosed lands or public commons within the bounds of any township in their respective counties: *Provided,* That they may also make an order, duly entered on the order-book of said board, allowing stock to run at large upon the public commons and uninclosed lands of certain portions of townships within their counties, when the said township is divided by a river or a railroad, providing that stock may run at large on one side of said river or railroad and not on the other, in the same township.

[1 R. S. 1852, p. 102. Approved May 31, 1852. In force May 6, 1853.]

Order to Specify.

SEC. 2. The board of commissioners of the different counties of this state shall specify, in said order, by name, the kind of animals that shall run at large or pasture upon the uninclosed lands or public commons within the different townships in the county, and also what particular class of the said kinds of animals, whether male or female, and of what age, shall be allowed to so run at large.

Taking Up.

SEC. 3. Whenever any animal shall be found running at large or pasturing upon any of the uninclosed lands or public commons of any township in any county in this state which shall not be specified in the order of the board of commisioners of said county, as in the preceding section provided, to have the right to so run at large or pasture thereon, any person being a resident of said township shall be authorized to take up and impound said animal in any private or public pound within said township.

Notice.

SEC. 4. The person taking up and impounding any such animal shall immediately give notice in writing to the owner of such animal, if known to him; if not, he shall give notice by posting up, in three of the most public places in the township, a notice in writing, stating therein the time of the taking up, the age and marks, and a full description of the animal taken up, and that the owner thereof is unknown to him, and the place where said animal is impounded.

Advertisement.

SEC. 5. It shall be the duty of such taker up of any animal to carefully attend to and provide the animal taken up with food; and if, at the expiration of ten days from the day of posting up of the notices as in the preceding section provided, no person shall appear and claim and prove the animal so taken to be his property, the taker up shall immediately advertise the animal for sale, at

public auction, by posting up, in three of the most public places in the township, written notices, stating therein the time and place of sale, the description of the animal to be sold, that the same was taken up as an animal not entitled by law to pasture upon the public commons; which notice shall be posted up at least ten days previous to the day of sale.

Return to Owner.

SEC. 6. If at any time before the expiration of ten days from the time of posting up the notices, as in section four of this act provided, any person shall appear and claim the animal taken up as his property, and prove, by his own affidavit or the affidavit of another person, that the animal taken up belongs to him, and shall pay to the person taking up said animal the sum of three dollars for his trouble and expense of keeping, he shall be entitled to the custody of the animal so taken up; and it shall be the duty of the taker up to immediately deliver the animal taken up to said owner: *Provided,* That in all cases where the owner shall be notified by the taker up in writing, if he shall immediately proceed to take into his own custody the animal taken up, he shall be liable to pay to taker up the sum of one dollar and fifty cents only.

Sale.

SEC. 7. In all cases where any animal shall be taken up and impounded under the provisions of this act, if the owner shall not appear and claim and prove the animal so taken up to be his property, as in the preceding section provided, previous to the day of sale specified in the notices of sale, as in this act provided, it shall be the duty of the taker up to proceed and sell, at public auction, the animal taken up for the highest price bid for the same; and out of the sum bid for and received for the animal so sold, he shall be entitled to retain the sum of three dollars for his services rendered in the taking up of said animal, and the further sum of ten cents per day for each day he shall have kept and fed the said animal, and the balance of the money received for said animal shall be paid over to the county treasurer, by the taker up, for the use of common schools, and shall belong to and become a part of the state common school fund, and shall be paid over to the treasurer of state by the treasurer receiving the same for that purpose: *Provided,* That it shall be the duty of the treasurer to retain the money in his office one year; and if any person shall appear and prove to the satisfaction of the treasurer and auditor that the animal sold by the person paying the money into the treasury was his property, the treasurer shall, on the warrant of the county auditor, pay the amount received to him, less his fees.

CHAPTER 90.

AN ACT to amend an act entitled "An act concerning the sale or exchange of diseased and defective horses or mules, and prescribing penalty therefor," approved February 26, 1907.

[S. 316. Approved March 6, 1913.]

Diseased Horses or Mules—Sale of—Penalty.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section one (1) of the above entitled act be amended to read as follows: Section 1. Whoever shall offer for sale, or exchange for any thing of value, any horse or mule, knowing the same to be afflicted with "glanders," or any other infectious or contagious disease, or knowing the same to afflicted with the "heaves" or to be "broken-winded," or to be what is popularly known as a "roarer" or a "cribber" or is an habitual kicker, periodic opthalmia or what is commonly known as "moon blindness" or any horse afflicted with apoplectic fits or what is commonly known as "fits" and shall conceal the existence of such disease or defect, and shall thereby effect the sale or exchange of such animal to any person who is ignorant of the existence of such disease or defect, and shall by such sale or exchange obtain anything of value, shall on conviction thereof be fined in any sum not exceeding five hundred dollars ($500.00) to which may be added imprisonment in the county jail or workhouse for a period not exceeding six (6) months.

DEAD ANIMALS.

AN ACT providing for the disposition of the bodies of dead animals, providing penalties for the violation thereof, and declaring an emergency.

[Acts 1903, p. 324. Approved and in force March 9, 1903.]

Disposition—Duty of Owner or Occupant of Land.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be the duty of every owner or occupant of land outside of incorporated cities and towns to bury or cremate the carcass of every hog found upon such land immediately after such owner or occupant shall have knowledge of the death of such hog. It shall be the duty of every owner or occupant of any premises in any incorporated city or town, on which premises is found the carcass of any hog, to bury, cremate or deliver or cause to be delivered to some rendering or desiccating establishment, immediately after such owner or occupant shall have knowledge of the death of such hog. It shall also be the duty of every owner or

occupant of any land or premises within the state on which the carcass of any animal other than a hog is found, to bury, cremate or deliver or cause to be delivered to some rendering or desiccating establishment, immediately after such owner or occupant shall have knowledge of the death of such animal. It shall further be the duty of every supervisor of roads to bury or cremate the carcass of every hog found in any highway within his district, immediately after such supervisor shall have knowledge of the death of such hog. It shall further be the duty of such supervisor to bury, cremate or deliver or cause to be delivered to some rendering or desiccating establishment the carcass of every animal, other than a hog, found in any highway within his district, immediately after such supervisor shall have knowledge of the death of such animal.

Penalty.

SEC. 2. Any person or officer who shall violate any of the provisions of this act by failing to so bury, cremate or deliver or cause to be delivered to such rendering or desiccating establishment the carcass of any animal, as required by the provisions of this act, within twenty-four hours after knowledge of the death of such animal shall come to such officer or person, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than five dollars nor more than twenty-five dollars.

Supervisor's Collection of Costs.

SEC. 3. It shall be the duty of every supervisor of roads to enforce the provisions of this law, and if he shall have knowledge that any owner or occupant of any land shall have failed to comply with any of the provisions of this act, it shall be his duty to bury, cremate or deliver or cause to be delivered to some rendering or desiccating establishment the carcass of such animal as provided for in this act, and to collect the cost thereof and two dollars per day additional for his services from such owner or occupant.

Emergency.

SEC. 4. Whereas an emergency is hereby declared to exist for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

AN ACT concerning public offenses.

[Acts 1905, p. 584. Approved March 10, 1905. In force April 15, 1905.]

Dead Animals.

SEC. 537. Whoever puts the carcass of any dead animal, or the offal from any slaughter-house or butcher's establishment, packing-house or fish-house, or any spoiled meat or spoiled fish, or any

putrid animal substance, or the contents of any privy vault, upon or into any river, pond, canal, lake, public ground, market place, common, field, meadow, lot, road, street or alley, and whoever being the owner or occupant of any such place, knowingly permits any such thing to remain therein to the annoyance or injury of any of the citizens of this state or neglects or refuses to remove or abate the nuisance occasioned thereby, within twenty-four hours after knowledge of the existence of such nuisance upon any of the above described premises owned or occupied by him, or, after notice thereof, in writing, from any health officer of the city or county, or the trustee of the township in which such nuisance exists, shall, on conviction, be fined not less than one dollar nor more than one hundred dollars.

OFFENSES CONCERNING ANIMALS.

AN ACT concerning public offenses.

[Acts 1905, p. 584. Approved March 10, 1905. In force April 15, 1905.]

Animal Brands—Altering.

SEC. 425. Whoever maliciously alters or defaces the mark or brand of any horse, mare, gelding, foal, filly, jack, mule, ass, sheep, goat, cattle or hog of another, or marks or brands any such animal, with intent to steal the same, shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not exceeding six months.

Public Offenses—Animals—Administering Poison.

SEC. 426. Whoever maliciously or mischieviously injures or kills by administering poison or by means of a deadly weapon, or in any other manner, any horse, mare, gelding, foal, filly, jack, mule, ass, sheep, goat, cattle or hog of another, shall on conviction be fined in any sum not exceeding five hundred dollars, to which may be added imprisonment in the county jail for a period not exceeding one year; or be imprisoned in the state prison for a period of not less than one year nor more than eight years. (As amended. Acts 1913, p. 190.)

Cruelty to Animals.

SEC. 584. Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or cruelly kills or causes or procures to be so overdriven, overloaded, driven when overloaded, over-

worked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or cruelly killed, any animal; and whoever, having charge or custody of any animal, either as owner or otherwise, inflicts needless cruelty upon the same, or mutilates the same, or deprives it of any natural means of defense or protection, or cruelly or unecessarily fails to provide the same with proper food, drink, shelter or protection from the weather, shall, on conviction, be fined in any sum not more than two hundred dollars, to which may be added imprisonment in the county jail for any period not exceeding sixty days: *Provided,* That the provisions of this section shall not apply to the docking of lambs, dehorning of cattle, or clipping of horses. (As amended. Acts 1907, p. 57.)

Keeping Animals for Fighting, Etc.

SEC. 585. Any person who shall keep or use any animal, fowl or bird for the purpose of fighting, or baiting, or as a target, or to be shot at, either for amusement or as a test of skill in marksmanship, and any person who shall be a party to or be present as a spectator at any such fighting, baiting or shooting of any animal, fowl or bird, and any person who shall rent any building, shed, room, yard, ground or premises for the purpose of fighting, baiting or shooting any animal, fowl or bird, as aforesaid, or who shall knowingly suffer or permit the use of any building, shed, room, yard, ground or premises belonging to him or under his control for any of the purposes aforesaid, shall, on conviction, be fined not more than two hundred dollars, to which may be added imprisonment in the county jail for any period not exceeding sixty days.

Cruelly Carrying Animals.

SEC. 586. Every owner, possessor or person having the charge or custody of any animal who cruelly drives or works the same or who neglects or abandons such animal when no longer fit for labor, or who shall abandon any maimed, sick, infirm, or disabled animal to die in any public place, or who shall carry or cause to be carried upon any vehicle, or otherwise, any living animal, fowl or bird, having the feet or legs tied together, or in any other cruel and inhuman manner, or who shall carry or cause to be carried any live animal upon any vehicle, or otherwise, without providing suitable racks, cars, crates or cages in which such animals may stand or lie down during transportation, or whilst awaiting slaughter, shall, on conviction, be fined not more than two hundred dollars, to which may be added imprisonment in the county jail for any period not exceeding sixty days.

Public Offenses—Railroad Transportation of Animals.

SEC. 587. No railroad company in the carrying or transportation of animals shall permit the same to be confined in cars for a longer period than twenty-eight consecutive hours without unload-

ing the same for rest, water and feeding, for a period of at least five consecutive hours, unless prevented from so unloading by storm or other unavoidable accident: *Provided,* That upon the written request of the owner or person in custody of that particular shipment, which written request shall be separate and apart from any printed bill of lading, or other railroad form, the time of confinement may be extended to thirty-six hours. In estimating the duration of such confinement, the time during which the animals have been confined without rest on connecting roads from which they have been received shall be included, it being the intention of this section to prevent their continuous confinement beyond the period of twenty-eight hours or thirty-six hours, as the case may be, except on contingencies hereinbefore stated. Animals so unloaded shall be properly fed, watered and sheltered during such rest by the owner or person having the custody thereof, or, in case of his default in so doing, then by the railroad company transporting the same, at the expense of such owner or person in custody thereof; and such company shall in such case have a lien upon such animals for food, care and custody furnished, and shall not be liable for any detention of such animals authorized by this section. Any railroad company, owner or custodian of such animals who shall fail to comply with the provisions of this section, shall, on conviction, for every such offense, be fined not less than one hundred dollars nor more than five hundred dollars: *Provided, however,* That when animals shall be carried in cars in which they can and do have the proper food, water, space and opportunity for rest, the foregoing provisions in regard to their being unloaded shall not apply: *Provided, further,* That it shall not be required that sheep be unloaded in the nighttime, but where the time expires in the nighttime in case of sheep the same may continue in transit to a suitable place for unloading. subject to the aforesaid limitation of thirty-six hours. (As amended. Acts 1913, p. 688.)

Complaint—Search Warrant.

SEC. 588. When complaint is made on oath or affirmation to any magistrate authorized to issue warrants in criminal cases that the complainant believes that any of the provisions of the laws of this state in relation to cruelty to animals are being or are about to be violated in any particular building or place, such magistrate, if satisfied that there is reasonable cause of such belief, shall issue and deliver a search warrant to any sheriff, deputy sheriff, constable or police officer authorizing him to search such building or place, and to arrest any such person or persons engaged in violating any of the provisions of such humane laws, or laws against cruelty to animals, as well as to arrest any person or persons there present and aiding or abetting therein, and to bring all such persons before some magistrate of competent jurisdiction, to be dealt with according to law. Such officer shall, at the same time, seize and bring to such magistrate every article or instrument found in such building or place and especially de-

signed or adapted to inflict wounds upon any animal or other living creature, or adapted to aid in the fighting, baiting or shooting of any animal, fowl or bird; and if on the trial of the person or persons so arrested it shall be found and adjudged by such magistrate, that such article or instrument is designed or adapted to the wounding or torture of animals, fowls or birds, and that it was intended to be used or employed for such purpose, the magistrate shall cause such article or instrument to be destroyed.

Horse, Glandered—Permitting at Large.

SEC. 589. Whoever knowingly permits any horse, mare or gelding affected with the glanders to be taken from his premises, or to run at large, shall, on conviction, be fined not less than five dollars nor more than one hundred dollars.

Sheep, Diseased—Allowing at Large.

SEC. 590. Any person, being the owner of sheep, or having the same in charge, who shall turn or suffer any sheep having any contagious disease, knowing the same to be diseased, to run at large upon any common, highway or uninclosed ground, or who shall sell any such sheep, knowing the same to be diseased, without fully disclosing the fact to the purchaser, shall, on conviction, be fined not less than two dollars nor more than twenty-five dollars for each such diseased sheep.

Cattle, Diseased—Transporting, Etc.

SEC. 591. Every person shall so restrain his diseased or distempered cattle, or such as are under his care, that they may not go at large off his own premises or the land to which they belong; and no person shall drive any diseased or distempered cattle affected with what is commonly known as Texas or Spanish fever, or any other infectious disease, into or through this state, or from one place therein to another, unless it be to remove them from one piece of ground to another of the same owner, without passing over a public highway; and no railroad company or owner of a steamboat, or any other company or person, shall bring into this state, except for the purpose of being carried through into another state on a continuous journey, or transport from one part thereof to another any Texas, Mexican, Cherokee or Indian cattle affected as above.

Liable for Damages.

SEC. 592. Any person, railroad company or the owner of any steamboat, who shall offend against or violate any of the provisions of the next preceding section, shall be liable for all damages sustained on account of such Texas or Spanish fever, or other infectious disease, being communicated from any such diseased

cattle to any other cattle in the neighborhood or along the line of such transportation, or removal of such diseased cattle into or through this state, or from any part thereof to another; and the existence or presence of such Texas or Spanish fever, or other contagious or infectious disease, among the native cattle of this state, on the same range with or in the vicinity of any such Texas, Mexican, Cherokee, Indian or other cattle, or along the line or route over which they were removed or transported, shall be prima facie evidence that the same were affected with such disease at the time of being removed or transported, and communicated it to such native cattle so affected therewith.

Hog, Carcass—Transporting.

SEC. 592½. Whoever hauls, moves or transports upon any public highway the carcass, or any part thereof, of any hog that shall have come to its death from disease; or whoever shall so haul, move or transport upon any such highway any hog while such animal is afflicted with disease shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars, or may be imprisoned in the county jail not exceeding six months, or may be punished by both such fine and imprisonment. The hauling, moving or transporting of any such hog, carcass or part thereof, to, or by the owner or employe of, any rendering or desiccating establishment, shall be prima facie a violation of this section: *Provided, however,* That the provisions of this section shall not apply to the streets, alleys or public highways of any incorporated town or city.

CHAPTER 259.

AN ACT entitled an act concerning the organization of associations for the purpose of promoting the breeding, raising, improving and exhibition of poultry, birds, dogs, cats and other domestic animals and fowls.

[S. 409. Approved March 6, 1913, p. 628.]

Corporations—Poultry, Dog, etc., Associations.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That any number of persons, citizens of the State of Indiana, not less than ten (10) in number, are hereby authorized to form an incorporated company for the purpose of promoting the breeding, raising, improving and exhibition of poultry, birds, dogs, cats, and other domestic animals and fowls.

Articles of Incorporation—Contents.

SEC. 2. The said association shall be incorporated under the voluntary corporation acts now in force in the State of Indiana, and under the name and style designated in the articles of associa-

tion, which said articles shall specify the objects of said association and the name and places of residence of each member or stockholder, which written articles of association shall be signed and acknowledged by each person who may be a member at the time of the organization, and such association shall file its articles of association in the recorder's office in the county in which said organization has been formed and such record or a certified copy thereof shall be conclusive evidence of the matters and things therein recited. A duplicate of the said articles must be filed with the secretary of state.

Corporate Powers.

SEC. 3. Every such association shall, from the time such record is filed in the proper recorder's office, be deemed and held to be a corporation, and shall have and possess all the rights, powers and privileges given to corporations by common law; to sue and be sued; plead and be pleaded, answer and to be answered, in any court of competent jurisdiction; to purchase and hold real estate and to borrow money and secure the payment of the same by notes, and mortgages, bonds and deeds of trust upon their personal and real property, to rent, lease, purchase, hold and sell and convey such real and personal property as may be necessary and proper for the purpose of erecting buildings, and for other proper objects of such corporation.

Shares—Sale or Transfer.

SEC. 4. Every such corporation may, at its discretion, divide its corporated property into shares, and designate the manner that the same may be held, sold, conveyed, assigned or transferred.

Constitution and By-Laws.

SEC. 5. A majority of the stockholders of said corporation shall have the power to adopt a constitution and by-laws for the government of such corporation and make such rules as may be necessary to carry the same into effect and enforce the same, which constitution and by-laws shall be consistent with the constitution and laws of this state and of the United States.

Emergency.

SEC. 6. It is hereby declared that an emergency exists for the immediate taking effect of this act, therefore the same shall be in force from and after its passage.

DOGS.

AN ACT regulating the taxing of dogs and for the protection of sheep, cattle, horses, swine and other live stock and fowls; to provide penalties for its violation; to repeal all laws in conflict.

[Acts 1897, p. 178. Approved March 6, 1897. In force April 14, 1897.]

Dog Tax, Paid to Assessor, in Advance.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the township assessor shall be required at the time of assessing the property of each property holder of his township as now required by law, to make diligent inquiry as to the number of dogs owned, harbored or kept by the person so assessed. And such person as assessed, shall pay immediately to the township assessor the sum of one dollar for each male dog or spayed female dog. And the sum of two dollars for each additional male dog or spayed female dog. And the sum of three dollars for each female dog (unspayed) so owned, harbored or kept.

Assessor to Give Receipt and Description.

SEC. 2. The township assessor shall give to each person a receipt for such money paid him, which shall be designated for dog tax, which receipt shall show the person's name who owns, harbors or keeps the dog, the amount paid, and the number, description and kind of dogs paid for, and whether male or female, and the number of each, which receipt shall relieve the person or persons owning, keeping or harboring such dogs for the current year, extending one year from its date or until the next regular township assessment. Such township assessor shall keep a record of the person or persons owning dogs and a record of the dogs paid for. And he shall keep a stub record or copy of the receipts given by him for money paid him as dog tax; such stub record shall show the amount paid him, the number of dogs, both male and female, paid for, and the person's name, owning the dogs so paid for. And he shall within five days after the completion of the assessment of his township, each year turn over to the township trustee of his township all the records kept by him relating to the collecting and payment of dog tax, and a copy of all receipts given by him to persons having paid him money as dog tax, and all money received by him as dog tax.

Report to Auditor.

SEC. 3. He shall report the amount collected by him as dog tax, and turned over to the township trustee of his township, to the county auditor of his county within three days after making his report to the township trustee of his township. The county

auditor shall make a record of the same, and charge the amount against the township trustee of the proper township, as receipts from the dog fund.

Keeping Dog Without Payment of Tax; Penalty.

SEC. 4. Any person who shall keep or harbor any dog, and shall not have paid the township assessor the tax as above specified and received his receipt for such payment, shall upon complaint of any resident of the county be subject to a fine of not less than five nor more than twenty dollars.

List of Dogs Upon Which Tax Is Unpaid.

SEC. 5. It shall be the duty of the township assessor to keep a record of all dogs that shall not be paid for, by whom owned, harbored or kept, and the number of such dogs and the kind, whether male or female, and he shall report the same to the township trustee of his township at the time of making his other report, as above provided, whose duty it shall be to report the same to the prosecuting attorney of his county, or district, or his deputy, who shall bring an action before any justice of the peace of his county, or in the circuit court of his county, against such persons, upon conviction thereof, and he shall receive the sum of five dollars for each case so prosecuted and such fee shall be charged as part of the judgment and cost against such person so prosecuted: *Provided,* That if any person shall acquire, own, harbor or keep any dog after the assessor shald have completed his assessment, he shall report such dog to and pay to the township trustee of his township the amount of dog tax as above provided and receive his receipt for the same, which receipt shall exempt him from further payment of dog tax on dogs described in said receipt, until the time of the next assessment of his township.

Failure of Officers to Perform Duty; Penalty.

SEC. 6. If any township trustee or township assessor shall fail to perform the duties as above provided, they shall be liable to a fine of not less than ten nor more than twenty dollars.

False Statement by Dog Owner; Penalty.

SEC. 7. Every person liable to taxation in any township in the State of Indiana, and residing therein, when listed for taxation, shall make and subscribe to an oath to the township assessor, in which he shall state the number of dogs, spayed and unspayed over the age of three months, owned, kept and harbored by such person, and any person who shall make a false statement to the assessor or township trustee as to the number, kind and sex of such dogs so owned, kept or harbored by him, shall be fined in any amount not exceeding one hundred dollars.

Keeping of Stock-Killing Dog; Penalty.

SEC. 8. Any dog that is known to have killed, maimed, chased or worried any sheep, cattle, horses, swine or other live stock, or fowls, unless accompanied by his master or some other person, may be killed by any person, and any person who shall own, keep or harbor any dog, after he knows that such dog has killed or maimed, chased or worried any sheep, cattle, horses, swine, other live stock or fowls shall be fined in any sum not less than ten nor more than fifty dollars.

Harboring Dog, Tax Unpaid; Penalty.

SEC. 9. It shall be a misdemeanor for any person who does not hold the township assessor's or township trustee's receipt, showing that the required tax has been paid for the same, as provided in this act, to keep, harbor, board or feed, or permit any dog to stay about his, her or their premises, and upon complaint they shall be liable to a fine in any sum not exceeding ten dollars.

Female Dog in Heat, at Large; Penalty.

SEC. 10. Any person owning or harboring any female dog, who shall allow such female dog to run at large during any period of rutting or when in heat, shall be fined not less than five nor more than twenty dollars.

Township Dog Fund.

SEC. 11. All money derived by the taxing of dogs by the township assessor or township trustee as provided by this act, shall constitute a fund known as the dog fund, which shall be used for the payment of damages sustained by owners of sheep, cattle, horses, swine and other live stock, or fowls killed, maimed or damaged by dogs, within any township of the State of Indiana. Each township trustee shall collect all fines belonging to his township from the different courts, where such fines have been assessed and paid: *Provided,* That no damage shall be assessed or paid on sheep except where individual damage exists or is shown.

Report of Owner of Killed or Maimed Live Stock.

SEC. 12. The owners of sheep, cattle, swine, horses, and other live stock or fowls killed, maimed or damaged by dogs, shall within ten days from the time thereof, report to the trustee of his township, under oath, in which he shall state the number and age as he believes, and the value of such stock or fowls so killed or damaged, and the damages sustained on account of such stock or fowls killed or maimed, in which affidavit he must be joined by two disinterested and reputable freeholders, or householders, and any person or persons who shall make any false statements of such dam-

ages, shall upon conviction be fined in any sum, not exceeding one hundred dollars to which shall be added imprisonment in the county jail, for any term not exceeding thirty days: *Provided, however,* That no appraisement shall exceed the actual cash value for which such live stock or fowls would have sold for if placed on the market at the time such damage was sustained: *Provided, further,* That if any township trustee deems the appraisement of such live stock or fowls so killed or maimed to be excessive he shall tender to the owner or owners, or credit upon his books such amount which in his judgment is equal to the injuries sustained and if any action at law by the owners thereof for the recovery of such damages, said owner shall fail to recover a judgment exclusive of costs for an amount greater than the amount so tendered the defendant shall recover costs of such suit.

Register of Losses—Proviso.

SEC. 13. The trustee shall register all losses in the order in which they are reported: *Provided,* That no person shall receive pay for sheep, horses, cattle, swine or other live stock or fowls killed or maimed by any dog or dogs owned or harbored by himself: *Provided, further,* That the dog fund heretofore collected shall be added to and applied with the fund arising under the provisions of this act. And when it shall so occur on the first Monday of March of any year in any township in the State of Indiana that said fund shall accumulate to an amount exceeding one hundred dollars over and above orders drawn on the same, the surplus aforesaid shall be paid and transferred to the county treasurer of the county in which such township is located and the fund arising from such surplus from the township of the county shall constitute a county dog fund and shall be distributed among the townships of the county in which the orders drawn against the dog fund exceed the money on hand. This distribution shall be made on the second Monday in March of each year, and if said county dog fund be insufficient to pay for all the live stock or fowls maimed or killed by dogs of all the townships the distribution shall be made in the ratio of the orders drawn against the dog fund of the townships and unpaid and unprovided for, which ratio shall be obtained from the report of the trustees of the townships made to the auditor of the county which it is hereby directed shall be made by each township trustee of the county upon the first Monday of March of each year, which report shall show all receipts into the dog fund of his township, and all orders drawn against the same in the order in which they were drawn. And when it shall occur upon the second Monday in March of any year that there is a surplus left of the county dog fund after provisions have been made for the payment for all the live stock or fowls killed or maimed, of all the townships of the county, such surplus shall be distributed for the schools of the county in the same manner the common school revenue of such county is distributed.

Dog Roaming Unattended.

SEC. 14. If any dog shall be found roaming over the country unattended by his master or owner, or his owner's agent, it shall be lawful to kill such dog.

Laws Repealed.

SEC. 15. All laws or parts of laws in conflict herewith, are hereby repealed.

NOTE.—This statute repealed section 47 of the general tax law.

CHAPTER 98.

AN ACT concerning the prevention of hydrophobia and for the creation of a fund for the care of persons affected thereby, prescribing penalties and declaring an emergency.

[H. 57. Approved March 2, 1911, p. 161.]

Hydrophobia Fund—County Auditor.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the county auditor shall annually on the first of April of each year pay to the state auditor five per cent. of the surplus dog tax collected from the townships of the county. The amount received from all county auditors shall constitute a state hydrophobia fund in the state treasury: *Provided,* That if at the end of the fiscal year such fund shall exceed three thousand dollars ($3,000) the surplus shall be turned into the school fund of the state.

State Board of Health—Pasteur Treatment.

SEC. 2. When the fund provided for in section one of this act shall reach the sum of two thousand dollars, the state board of health shall provide means to give the Pasteur treatment for persons affected with hydrophobia, either in private institutions or in an institution which may be established and maintained by the board for that purpose whenever they shall so determine and when the funds therefor shall be available. For the purposes of this act, the auditor of state shall issue warrants on the hydrophobia fund in the state treasury on the presentation of itemized vouchers issued by the state board of health and attested by the secretary.

Patients—Payments—Rules—Investigations.

SEC. 3. The state board of health is authorized to pay the traveling and living expenses of any person duly certified to it for the Pasteur treatment and to pay the traveling and living expenses of any child's mother or nurse who may be necessary to care for

said child during treatment. It shall be the duty of the state board of health to pass rules for the detailed enforcement of the purposes of this act and any one violating any of said rules, shall, upon conviction, be fined in any sum not exceeding twenty-five dollars. When it shall come to the knowledge of any health officer in the state that any person within his jurisdiction has been bitten by a dog known or supposed to have hydrophobia, he shall investigate the case and if he find such person to be affected or in danger of being affected with hydrophobia, and that such person has no visible means with which to pay for the Pasteur treatment, he shall refer the case to the state board of health. The state board of health shall hereupon take charge of such case and cause such person to be treated with the Pasteur treatment according to such rules as may be prescribed by the board.

Infected Animal—Kill or Quarantine.

SEC. 4. Any animal known to be infected with hydrophobia shall be quarantined or killed by its owner on the order of the local health officer and on the failure of the owner to kill or quarantine such animal, the health officer shall cause such animal to be killed.

Local Officers—Duties.

SEC. 5. Whenever, in the judgment of the health officer of any town, city or county there is danger of the outbreak or spread of hydrophobia within this jurisdiction, he shall thereupon order, with the consent and aid of the sheriff, the muzzling or quarantining in such territory as they may deem proper of all dogs and other animals during such period as they may deem necessary. Such order shall be given in writing to the person or persons concerned, if demanded. All police officers, sheriffs, constables and marshals shall kill any dog running at large without a muzzle in the locality where the muzzling of dogs is ordered, as herein provided.

Penalty.

SEC. 6. Any officer neglecting or refusing to fulfill the duties as set forth herein, or any person or persons who violate this act or who may resist legal orders as herein provided, shall, upon conviction, be fined in any sum not less than five nor more than fifty dollars.

Emergency.

SEC. 7. An emergency existing, this act shall be in force from and after its passage.

FISH.

AN ACT to authorize the appointment of a commissioner of fisheries and game for the State of Indiana, defining his duties, making an appropriation to defray the expenses thereof, and repealing an act entitled "An act to authorize the appointment of a commissioner of fisheries for the State of Indiana, defining his duties and making an appropriation to defray the expenses thereof," approved March 26, 1881, and declaring an emergency.

[S. 11. 1899, p. 44. Approved and in force February 13, 1899.]

Commissioner of Fisheries and Game.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the governor immediately after the taking effect of this act, shall appoint a suitable person, who shall be a citizen of the State of Indiana to discharge the duties hereinafter prescribed who shall be known as commissioner of fisheries and game, and who shall hold his office for four years, subject to removal by the governor for incompetency, or other cause that would render him an improper person to longer hold the office.

Duties of Commissioner.

SEC. 2. It shall be the duty of said commissioner to examine the various lakes, rivers, streams and water courses in this state and ascertain whether they can be rendered more productive in the supply of fish, and what measures are desirable and expedient to effect this object either in propagating and protecting the fish that at present frequent the same, or in the selection and propagation of other species of fish therein, or both. Said commissioner shall also inquire into and test the best modes of the artificial propagation of fish in the various waters of the state, and shall procure and superintend the procuring of such fish, fish eggs and spawn, as shall be necessary for said waters and the propagation of the same therein. Said commissioner shall inquire into the best methods of preserving and propagating the game birds and song birds now in the state and shall introduce such varieties of food and game birds, foreign to the state, as may be deemed for the best interests of the people of the state. Said commissioner may take or cause to be taken, any fish or game, in any manner and at any time, for purposes connected with fish or game culture, protection, preservation or propagation, or with scientific observation. *Provided,* That in all cases of scientific observation he shall require a permit from the Indiana academy of science. Said commissioner shall also see that all laws for the protection of fish and game are enforced, and shall institute proceedings for the violation and punishment of any person or persons violating said laws within the State of Indiana, and shall have all the powers given to any township trus-

tee or road supervisor for the enforcement of said fish or game laws, and shall have power to appoint a deputy or deputies in any county of the state for the purpose of aiding in the enforcement of such laws, who shall receive no other compensation than that provided in section seven (7) of this act.

Filling Vacancies.

SEC. 3. It shall be the duty of the governor to fill any vacancies that may result by reason of death, removal or otherwise.

Authority of Commissioner and Deputies.

SEC. 4. The said commissioner and his deputies shall have the authority to arrest, without writ, rule, order or process any person in the act of committing or attempting to commit a crime or misdemeanor, in his presence, in violation of the fish and game laws of this state, and they are hereby made peace officers of this state for that purpose.

Bond.

SEC. 5. Said commissioner shall, before any warrant is issued to him for any money for the state treasury, execute to the State of Indiana his bond in the sum of $2,000.00, with good and sufficient freehold surety, resident in this state, conditioned for the faithful performance of the duties of said office and the proper expenditure of all moneys that may come into his hands as such commissioner, which bond shall be subject to the approval of the auditor of state and filed in his office.

Report to Assembly.

SEC. 6. Such commissioner shall report the result of his investigations, experiments and labors to the next general assembly succeeding his appointment, which report shall also embrace all necessary suggestions and recommendations that he may deem proper to increase the efficiency and value of fish and game culture to the citizens of this state.

Salary and Expenses—Duties.

SEC. 7. That said commissioner shall have and receive for his services the sum of $1,200.00 per annum, to be paid out of any money in the state treasury, not otherwise appropriated, in quarterly installments, on the warrant of the auditor of state in the same manner and upon the same vouchers as other officers of the state are paid, and in addition thereto the sum of $1,200.00 per annum for traveling and office expenses, and the same shall be all the compensation that he shall be entitled to receive from this state, which sums shall be paid out of any money in the treasury not

otherwise appropriated, in quarterly installments. Said commissioner may have his appearance entered with a prosecuting attorney in any proceedings brought by said commissioner for the prosecution of any person for the violation of any law for the protection of fish, or game, and may be present in person or by deputy and assist said prosecuting attorney, and upon a plea of guilty or upon conviction of the defendant a fee of $10.00 shall be taxed in said proceeding for said commissioner in addition to any fee allowed the prosecuting attorney, and it shall be a part of the cost in the said case, and shall be collected as other costs are collected, all of which costs shall be used in paying his deputies.

Act Repealed.

SEC. 8. An act entitled "An act to authorize the appointment of a commissioner of fisheries for the State of Indiana, defining his duties, and making an appropriation to defray the expenses thereof, approved March 26, 1881, is hereby repealed.

Emergency.

SEC. 9. Whereas, an emergency exists for the immediate taking effect of this act: therefore, the same shall take effect and be in force from and after its passage.

AN ACT to amend section two (2) of an act entitled "An act to regulate the taking of fish in the waters of the state, to protect the waters of this state from pollution, regulating matters properly connected therewith, providing penalties for violations of this act, repealing all laws and parts of laws in conflict herewith," approved March 2, 1901, and repealing all laws and parts of laws in conflict herewith.

[Acts 1907, p. 501. Approved March 11, 1907.]

Commissioner Fisheries and Game—Seines—Seizure.

SEC. 2. It shall be the duty of the commissioner of fisheries and game and his deputies to seize and destroy any seine more than twelve (12) feet long and four (4) feet wide, dip net, gill net, set net, trammel net, pond net, cast net or other kind of net, trap or spear, and for each seine more than twelve (12) feet long and four (4) feet wide, dip net, gill net, set net, trammel net, pond net, cast net or other kind of net, trap, the officers so seizing and destroying the same shall be paid out of the county treasury of the county, where the same is seized and destroyed the sum of five dollars ($5). and for each spear or gig so seized and destroyed such officer shall in like manner be paid the sum of one dollar ($1): *Provided,* That no such sums shall be paid to such officer unless the owner or the person in whose possession such article or articles are found shall have been convicted and fined for using or having such articles or article in possession.

Repeal.

SEC. 2. All laws and parts of laws in conflict herewith are hereby repealed.

NOTE.—The statute which it is attempted to amend in the above act was repealed by the general crimes act of 1905; and for this reason it is believed the above amendment is void. The act attempted to be amended can be found in Acts 1901, p. 77. Section two of the act of 1901 was unquestionably repealed. It would seem that the Legislature intended to amend section 11 of that act and not section 2, as can be readily seen by comparing this amendment with sections two and eleven of the act of 1901.

AN ACT concerning public offenses.

[Acts 1905, p. 584. Approved March 10, 1905. In force April 15, 1905.]

Fish—Seines, Traps or Spears in Possession.

SEC. 613. Whoever has in his possession any seine, dip net, gill net, pond net, or other kind of net, spear, gig or trap, or any part thereof, except as otherwise provided in this section, shall, on conviction, be fined not less than five dollars nor more than two hundred dollars for each offense, to which may be added imprisonment in the county jail for any determinate period, and every day's possession of such articles, or any of them, shall constitute a separate and distinct offense under this section: *Provided,* This section shall not apply to persons who have in their possession nets, seines, traps or other fishing tackle for the purpose of taking fish from Lake Michigan, the Ohio river, or the Wabash river in so far as it is the boundary line between the states of Indiana and Illinois, except that persons having such nets, seines and other devices for use in any of the said waters, shall keep the same within two miles of such waters: *Provided, also,* That this section shall not apply to owners of private ponds who keep a seine for use only in such ponds: *Provided, also,* That this section shall not apply to minnow traps or minnow seines not more than twelve feet long, four feet deep, and the meshes of which shall not be larger than one-fourth of an inch.

Fish Trap Prohibited.

SEC. 614. Any person who shall construct any fish trap or other device for catching fish, or shall shoot, spear, gig, or in any manner take or kill any fish within one thousand feet of any fish ladder constructed on any dam in the State of Indiana, save and except by hook and line, shall, on conviction, be fined not less than twenty-five dollars nor more than seventy-five dollars, and the township trustee shall, or any other person may, destroy any fish trap or other device for catching fish found within one thousand feet of any such fish ladder.

Catching and Sale Forbidden.

SEC. 615. Whoever shall sell or offer for sale any pike, pickerel, wall-eyed pike, perch, bluegills, black bass, green bass, rock bass, or other species of bass caught in any of the waters of this state, at any time, shall on conviction, be fined five dollars ($5.00) for each fish caught, sold or offered for sale, and proof that any of the varieties of fish mentioned in this section were sold or offered for sale shall be considered prima facie evidence that said fish were caught in the waters of this state. (As amended. Acts 1907, p. 86.)

Shooting Fish.

SEC. 617. Whoever at any time shoots or shoots at any fish of any kind in any of the waters of this state, shall, on conviction, be fined not less than five dollars nor more than fifty dollars for each offense, to which may be added imprisonment in the county jail not exceeding thirty days.

Catching of Fish Regulated.

SEC. 619. Whoever shall take, catch or kill, or attempt to take, catch or kill any fish in any of the waters of this state by means of any gig, spear, seine, net, or trap of any kind, except as otherwise provided in this section; or whoever shall kill or destroy, or attempt to kill or destroy any fish by the use of Indian cockle, fish berries or other substances which have a tendency to stupefy or poison fish, shall, on conviction, be fined not less than ten dollars nor more than twenty dollars, to which may be added imprisonment in the county jail for any period not to exceed thirty days, and for a second or subsequent offense he shall be fined not less than fifty dollars nor more than two hundred dollars, to which may be added imprisonment in the county jail for any period not to exceed sixty days: *Provided,* That the provisions of this section as to the use of a gig, spear, seine, net or trap of any kind shall not apply to the waters of Lake Michigan, private ponds, the Ohio river, or the Wabash river so far as it is the boundary line between the states of Indiana and Illinois; but, in such case, it shall, nevertheless, be unlawful to use any net, seine, or trap in the Ohio river, or Wabash river so far as the same is the boundary line between the states of Indiana and Illinois, within one hundred yards of the mouth of any stream emptying into said rivers from the Indiana side. Nor to persons catching minnows for bait with a minnow trap or a minnow seine, which seine shall not be more than twelve feet long, four feet deep, and the meshes of which shall not be larger than one-fourth of an inch.

Size of Fish Caught.

SEC. 620. No pickerel or pike perch, commonly called wall-eyed pike, less than twelve inches in length, or rock bass, or crap-

pie, less than six inches in length, or black bass less than ten inches in length, shall be intentionally taken from the waters of this state, or possessed, and in case any such fish is taken the person taking it shall immediately return it to the waters from which it was taken without unnecessary injury. Any person violating the provisions of this section shall, on conviction, be fined not exceeding ten dollars.

Obstruction of Streams.

SEC. 622. Whoever stretches or places any obstruction other than a dam across any of the streams of the state which prevents the fish from ascending or descending any such stream shall be fined not less than ten dollars nor more than one hundred dollars.

Explosives Prohibited.

SEC. 624. Whoever uses dynamite or other explosive in any of the waters of this state, except for mining or mechanical purposes, by special permission of the commissioner of fisheries and game, or his chief deputy, shall, on conviction, be fined not less than two hundred and fifty dollars, nor more than one thousand dollars, to which may be added imprisonment in the county jail not less than thirty days nor more than one year; and for a second or subsequent offense he shall be fined five hundred dollars and imprisoned in the state prison not less than one year nor more than three years.

Trespassing on Land.

SEC. 625. No person shall enter upon any enclosed land for the purpose of setting a trot line, nor shall any person fish in any private pond, without first obtaining the consent of the owner, lessee or tenant of such premises. Whoever shall violate or attempt to violate the provisions of this section shall, on conviction, be fined not less than five dollars nor more than twenty-five dollars. (As amended. Acts 1907, p. 86.)

Commissioner—Fee in Prosecutions.

SEC. 626. In all cases of conviction or on pleas of guilty of violating any of the provisions of this act in relation to fish or game, there shall be taxed against each defendant so convicted, in favor of the commissioner of fisheries and game, a fee of twenty dollars as a part of the costs. Said fees shall be paid by the officer collecting the same to the auditor of state every sixty days, on the first day of alternate months, in the manner in which license fees referred to in section 611 of this act are paid; and such fees shall be paid to the treasurer of state by the auditor of state as a part of the fish and game protective fund to be expended by the commissioner of fisheries and game in paying rewards and other expenses for the detection and conviction of persons who violate provisions of this act, and the fish and game laws of this state.

Powers of Commissioner Not Abridged.

SEC. 626½. Nothing contained in this act shall in any way abridge or repeal the powers conferred on the commissioner of fisheries and game by the act creating his office, but all the powers and privileges conferred on him by said act are hereby reaffirmed.

AN ACT entitled an act for the protection of fish in private ponds, and providing the penalty for the violation of this provision.

[Acts 1899, p. 26. Approved February 8, 1899. In force April 28, 1899.]

Catching Fish in Private Ponds; Penalty For.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be unlawful for any person other than the owner or persons authorized by him to take, catch or attempt to take, catch or make way with any fish, eels or other property in or about a private fish-pond, and any person found guilty of any of the provisions of this section shall be deemed guilty of a misdemeanor and shall be fined in any sum of not less than five dollars, nor more than one hundred dollars, to which may be added imprisonment in the county jail not less than ten days, nor more than one hundred days.

Killing Fish With Dynamite and Prescribing Penalty.

SEC. 2. Any person other than the owner or persons authorized by him who shall kill, or destroy, or attempt to kill or destroy any fish, eels, or other property in or about any private fish-pond by means of dynamite, or other explosive, compounds of substance, or by the use of Indian cockle, fish berries, or any other poisonous substance shall be deemed guilty of a felony and upon conviction thereof, shall be imprisoned in the state prison for a period of one year.

AN ACT prohibiting ice fishing in certain lakes of this state, providing penalties for the violation thereof, repealing all laws in conflict therewith and declaring an emergency.

[Acts 1907, p. 53. Approved February 21, 1907.]

Fish—Ice Fishing in Lakes.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be unlawful to take, catch or kill, or attempt to take, catch or kill, any fish in the waters of any fresh water lakes in the State of Indiana having a water area of not more than two and one-half square miles, and not less than two square miles, as shown by the twenty-fifth annual report of the department of geology and natural resources of the State of Indiana, for the year of 1900, when the waters of such lakes are covered in whole or in part with ice.

Penalty.

SEC. 2. Whoever shall violate any of the provisions of this act shall be fined in any sum not exceeding five dollars for each and every attempt to take, catch or kill any fish, and not less than five dollars nor more than twenty-five dollars for each fish so taken, caught or killed from the waters of such lakes.

Repeal.

SEC. 3. All laws and parts of laws in conflict herewith are hereby repealed.

Emergency.

SEC. 4. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in full force and effect after its passage.

FISH LADDERS.

AN ACT providing for the construction and repairing of fish ladders, defining certain misdemeanors, providing penalties, and declaring an emergency.

[Acts 1889, p. 51. Approved March 5, 1885. In force May 10, 1899.]

Fish Ladders, When to Be Constructed.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the owner, or owners, of any dam across any of the rivers, streams or water-courses in this state, when such dam is of the height of four feet or over, shall, within six months after the passage of this act, construct and maintain fish ladders on such dam sufficient to allow the fish below such dam to pass over such dam into the waters above the same. Such fish ladders to be constructed in such manner and of such material as shall be directed by the commissioner of fisheries of Indiana.

Fish Ladders—Lien.

SEC. 2. If the owner, or owners, of any such dam shall fail or refuse to comply with the provisions of the first section of this act, then it shall be the duty of the trustee of the township in which such dam is situated, notwithstanding it may be within some incorporated city or town, to proceed to erect on said dam such ladders as will afford a passage for such migrating fish below over into the waters above such dam, and the cost thereof shall be a debt due from the owner, or owners, of such dam to said trustee, and

shall be a first lien on said dam and water-power, and so much of the real estate on each side of such dam as may be used in connection therewith, belonging to such owners, and necessary to a proper use and enjoyment of such dam and water-power, and if the owner of such dam shall fail or refuse to pay the amount thereof to such trustee, on demand, he shall sue and recover the same, and may also have foreclosure of such lien as in case of foreclosure of mortgages, and the court shall order the sale of such dam, water-power and real estate as other real property is sold on execution, without relief from valuation or appraisement laws; and wherever any dam is now located or may be constructed across any river, stream or watercourse forming the boundary line between two townships, or between two counties, then the trustee of either township in which any part of said dam is situate, in case of such failure, may construct such ladder and have the same remedy against such owner, or owners, as is above provided where any such dam is situate wholly in one township.

Fish Ladders Hereafter to be Constructed.

SEC. 3. When any dam shall hereafter be constructed across any river, stream or water-course in this state of the height specified in the first section of this act, the owner or owners shall construct on the same such fish ladders as above provided for, and the duties of township trustees in relation thereto shall be the same as are in this act above provided, and they shall have the same remedies against the owners thereof on failure to comply with the provisions of this act.

Repairs.

SEC. 4. When any such fish ladder shall get out of repair, it shall be the duty of such owner or owners to put the same in repair, and if out of repair for thirty days after being notified by such trustee, then the trustee shall make such repairs and recover the cost thereof from such owner or owners in the same manner as above provided in cases of failure to construct such fish ladders.

Unlawful Fishing.

SEC. 5. Any person who shall construct any fish trap or other device for catching fish, or shall shoot, spear, gig, or in any manner take or kill any fish on or near any fish ladder constructed on any dam in the State of Indiana, save and except by hook and line, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than twenty-five dollars nor more than seventy-five dollars, and the township trustee shall, or any other person may, destroy any fish trap or other device for catching fish found on or near any fish ladder.

AN ACT supplemental to an act entitled "An act providing for the construction and repairing of fish ladders, defining certain misdemeanors, providing penalties, and declaring an emergency," approved March 5, 1885, prescribing the duties of the commissioner of fisheries in relation thereto.

[Acts 1903, p. 193. Approved March 7, 1903. In force April 22, 1903.]

Supplemental.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That if any owner of any such dam shall violate or attempt to violate the provisions of the first section of the act to which this act is supplemental, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten ($10) nor more than twenty-five ($25) dollars.

Duty of Commissioner of Fisheries and Game.

SEC. 2. It shall be the duty of the commissioner of fisheries and game or his deputy to prosecute all violations of the provisions of this act, and he is hereby given the authority for such prosecution as he has in the fish and game laws of the state.

Penalty for Failure to Repair.

SEC. 3. When any such fish ladder shall get out of repair, it shall be the duty of such owner or owners to put the same in repair within thirty days after being notified by the commissioner of fisheries and game or his deputy. Whosoever shall violate or attempt to violate the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten ($10) nor more than twenty-five ($25) dollars.

CHAPTER 286.

AN ACT concerning licenses to fish and hunt and prescribing duties of certain officers in connection therewith.

[H. 214. Approved March 7, 1911. p. 677.]

Fish and Game—Non-Resident License.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be unlawful for any person who is a non-resident of the State of Indiana to fish in the waters of this state, without first procuring a license so to do. It shall be the duty of the clerk of the circuit court of any county of this state to issue such license to any non-resident, upon the application of such non-resident person. Such license shall contain a statement of the residence, age, weight, height, color of hair, color of eyes, complexion,

and distinctive mark or marks of such licensee, and shall be signed by him in ink. Such license shall contain the signature and seal of the commissioner of fisheries and game, or appointee issuing the same. The commissioner of fisheries and game may issue such licenses provided for in this section, and shall have power to appoint persons to issue such licenses. Said commissioner of fisheries and game shall furnish all necessary blank applications and licenses to the said clerks and appointees, and said commissioner of fisheries and game shall give to each appointee as herein provided a certificate showing said appointee to be authorized to issue such license. Before the issuance of any such license, the applicant shall pay to such clerk, commissioner or appointee, the sum of one dollar. Each clerk and appointee shall remit fees collected by virtue of this section and report to the commissioner of fisheries and game, every thirty days, on the first day of each month. The commissioner of fisheries and game shall report and remit same to the auditor of state, as a part of the fund hereinafter designated "The fish and game protective and propagation fund." Any person securing such license shall have the same in his possession when fishing and shall show the same to the commissioner of fisheries and game or his deputy upon request: *Provided,* That the provisions of this act shall not apply to children under the age of eighteen years nor to the wife of a man who has procured a license as provided in this section: *and, Provided further,* That a license to any non-resident person to hunt shall also entitle such non-resident to fish without procuring the license as provided in this section, upon his showing same to the commissioner of fisheries and game or his deputy. Whoever shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than five dollars nor more than twenty-five dollars, and every day this section or any of its provisions is violated shall constitute a sparate [separate] and distinct offense.

Reports to Commissioner of Fisheries and Game.

SEC. 2. Each clerk and appointee authorized to issue licenses to hunt or fish shall report to the commissioner of fisheries and game every thirty days, on the first day of each month, informing him of the number of licenses issued by such clerk or appointee during the preceding thirty days, the names of the licensees and the number of blank licenses remaining in his possession. Such clerks and appointees shall, at the time of making such report, remit to the commissioner of fisheries and game all moneys collected for such licenses as shall have been issued and the said clerks shall also remit therewith all moneys received by them from fines or other sources that may be due to said commissioner of fisheries and game. Each clerk or appointee shall be entitled to the sum of ten cents for each license issued by him, which sum shall be retained by him from moneys collected for such licenses. Justices of the

peace or other officers who shall collect moneys due the fish and game commission[er] shall promptly remit the same to the said commissioner of fisheries and game.

Commissioner's Settlements—Warrants.

SEC. 3. The commissioner of fisheries and game shall, on the first day of each month, pay to the auditor of state all moneys received by him from whatever source during the preceding month. The auditor of state shall keep a record of the amounts so received, and shall, upon the receipt of such amounts, turn the same over to the treasurer of state the moneys so paid to the treasurer of state, together with such other sums as may be appropriated or set apart for that purpose, shall constitute a fund to be known as the fish and game protective and propagation fund, which shall be used for the purpose of protecting and propagating game, fish and birds in the state, and for other lawful purposes in connection with the office of the commissioner of fisheries and game, and shall only be drawn on the warrant of the auditor of state. Such warrants shall be drawn by the auditor of state on the treasurer of state on certified estimates filed with him by the commissioner of fisheries and game on the first day of each month, showing the needs of the office of said commissioner of fisheries and game for the ensuing month, and the amount of money, if any, remaining in his hands from former estimates. Any sum remaining in the hands of the commissioner of fisheries and game from such estimates shall be deducted from the total of the estimate for the month following: *Provided,* That the commissioner of fisheries and game shall use at least one-fourth of the said fund herein provided for the propagation of fish and the distribution of the same and the purchase and distribution of live quails and other species of live game, for the purpose of restocking this state with such live game.

Chief Deputies, Deputies and Assistants.

SEC. 4. The commissioner of fisheries and game is hereby authorized to employ two chief deputies, at an annual salary of not to exceed fifteen hundred dollars per annum and actual expenses each, and such other deputies as he may deem necessary, not to exceed thirty-one at a salary of not to exceed seventy-five dollars per month and actual expenses each. He may also employ such other assistants as may be necessary.

Repeal.

SEC. 5. All laws and parts of laws in conflict herewith are hereby repealed.

CHAPTER 147.

AN ACT for the preservation of the fish and game of the state, defining certain offenses in reference thereto, and prescribing penalties for the violations thereof, and other matters incident thereto, and declaring an emergency.

[H. 122. Approved March 8, 1913, p. 368.]

Public Offense—Fish and Game—Protection—Penalty.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be the duty of the commissioner of fisheries and game, in each of the lakes of this state having shallows and bays in which fish make their beds and hatch their young, to set apart such shallows and bays and designate them as breeding grounds by means of appropriate signs bearing the words, "State Breeding Ground." Any person who shall knowingly, in any manner, take, catch, or kill, or pursue for the purpose of taking, catching or killing, any fish whatever from any such breeding ground or grounds, after the same shall have been set apart and designated as hereinbefore set out, at any time between the twentieth day of March and the first day of July of any year, shall be fined not less than five dollars nor more than twenty-five dollars for each fish so taken, caught, killed or pursued: *Provided,* That this section shall not be construed to prohibit the removal of marl from the waters of this state for manufacturing purposes.

Fishing Devices Prohibited—Penalty.

SEC. 2. Whoever fishes in any of the waters of this state with any trot line or set line of any kind having any hook or hooks thereon smaller than what are commonly known as number 6-0 Kirby, or with any line and hook of any kind attached to any bottle, or to any floating device whatever, shall, on conviction, be fined not less than five dollars, nor more than fifty dollars for each offense: *Provided,* That the provisions of this section shall not apply to the Ohio river, Lake Michigan, nor the Wabash river so far as it is the boundary line between the states of Indiana and Illinois.

Number of Fish Caught—Restriction.

SEC. 3. No person shall catch, kill, or have in his possession more than fifty blue gills, sunfish or crappies or more than twelve bass in any one day. Where two or more persons are fishing or angling from the same boat, the aggregate number of bass taken, caught, killed, or possessed by the occupants of said boat shall not exceed twenty: *Provided,* That none of the provisions of this section shall prevent the owner of private ponds from taking fish from said private ponds in any manner or in any number. Whoever shall violate any of the provisions of this section shall, on conviction, be

fined not less than five dollars nor more than twenty-five dollars for each fish so taken or possessed, in excess of the number as limited in this section.

Water Pollution—Penalty.

SEC. 4. It shall be unlawful for any person, firm or corporation, to cause, suffer or permit any dye-stuff, acid, coal-tar, oil, logwood, or any refuse matter or substance whatever to be thrown, run or drained into any of the waters of this state in quantities sufficient to injure or destroy the lives of fish which may inhabit the same at or below the point where any such substances is discharged or permitted to flow into such waters. Whoever violates any of the provisions of this section shall, on conviction, be fined not less than fifty dollars nor more than one thousand dollars for each offense, and each day's violation of the provisions of this section shall constitute a separate offense: *Provided,* That the provisions of this section shall not abridge the rights of owners of gas or oil wells to drain the waters from such wells into the waters of the state, as now permitted by law.

Mechanical Device—Use of—Penalty.

SEC. 5. Whoever shall take, catch, kill, stun or stupefy, any fish in any of the waters of this state by discharging or passing an electrical current into or through the waters which constitute the habitat of such fish; or whoever shall take, catch or kill, any fish with the hands unassisted by any mechanical device, or with any gaff hook or grappling hook or similar device held in the hand, shall on conviction be fined not less than ten dollars nor more than fifty dollars for each fish so unlawfully taken, caught, killed, stunned or stupefied: *Provided,* That the provisions of this section shall not apply to persons who use a gaff hook or similar device for securing any fish that shall at the time be hooked on any legal hook and line, nor for the taking of carp, garfish, dogfish or sucker.

Transportation Prohibited.

SEC. 6. It shall be unlawful for any railroad company, express company, or other common carrier to transport, take or carry, or receive for the purpose of transporting, taking or carrying beyond the limits of this state any pike, pickerel, wall-eyed pike, perch, blue-gill, black-bass, green-bass, rock-bass or other species of bass, and it shall be unlawful for any person or persons to deliver or offer to deliver to any railroad company, express company or other common carrier, any of said species of fish for the purpose of transporting, taking, or carrying the same beyond the limits of this state: *Provided,* That none of the provisions of this section shall prevent any common carrier from transporting fish which have been taken from private ponds, nor to prevent any person

other than a common carrier, from personally taking a total of not to exceed twenty-four (24) of the said species, caught by himself, beyond the limits of this said state, which said fish shall be carried by such person openly for inspection by any officer of the Indiana fish and game commission: *Provided, further,* That before any common carrier shall transport any fish from private ponds, the owner of said ponds shall present an affidavit stating that said fish were taken from said private ponds. The words "private ponds," as used in this act, shall be construed to mean and include any body of water of not greater than twenty acres in area, lying wholly within or upon the land of any land owners. Whoever shall violate any of the provisions of this section shall, upon conviction thereof, be fined ten dollars for each fish transported, taken or carried, or received for the purpose of transporting, taking or carrying, or delivered or offered for delivery, for the purpose of transporting, taking or carrying beyond the limits of this state.

Closed Season for Game—Penalty.

SEC. 7. It shall be unlawful to hunt any kind of game except wild duck and other water fowl, at any time from the twentieth day of December to the first day of April of the following year. Any one guilty of violating any of the provisions of this section shall, on conviction, be fined not less than five dollars nor more than fifty dollars for each offense, and every day this section is violated shall constitute a separate and distinct offense: *Provided,* That nothing in this act shall be construed to prevent the hunting of rabbits between the twentieth day of December and the tenth day of January of the following year.

Quail or Grouse—Possession.

SEC. 8. It shall be unlawful for any person, firm or corporation to hunt, shoot or kill, pursue for the purpose of shooting or killing, or have in his or its possession, dead or alive, except for breeding purposes, and then only by permission of the commissioner of fisheries and game, any quail or ruffled grouse at any time from the twentieth day of December of any year to the tenth day of November of the following year. Whoever, shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined ten dollars ($10.00) for each quail or ruffed [ruffled] grouse so hunted, shot, killed, purchased or possessed.

Additional Costs—To Whom Paid.

SEC. 9. In all cases of conviction or on pleas of guilty of violating any of the provisions of this act or of any act in relation to or for the protection of fish, game, fur-bearing animals or wild birds, there shall be taxed against each defendant so convicted, in favor

of the commissioner of fisheries and game, a fee of five dollars as part of the costs. Said fee shall be promptly paid by the officer collecting the same to the commissioner of fisheries and game and shall become a part of the fish and game protective and propagation fund. And the commissioner of fisheries and game and his deputies are hereby authorized and empowered to make arrests for violations of the laws relating to wild birds and fur-bearing animals that are protected by law the same as they are now empowered to enforce the laws for the protection of fish and game.

Repeal.

SEC. 10. Sections five hundred and ninety-five (595), six hundred eight (608), six hundred sixteen (616), six hundred eighteen (618), and six hundred twenty-three (623) of an act entitled "An act concerning public offenses," approved March 10, 1905, and all laws and parts of laws in conflict with this act are hereby repealed.

Emergency.

SEC. 11. Whereas, an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

CHAPTER 155.

AN ACT to promote fish culture in the State of Indiana.

[S. 170. Approved March 8, 1913. p. 414.]

Fish Hatcheries—Right to Conduct by United States.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That, in order to promote fish culture and the increase of useful food and game fishes in the lakes and streams of the State of Indiana, full authority is granted to the United States commissioner of fisheries and his duly authorized agents to conduct fish hatching and all operations and investigations connected therewith in any manner and at any time that may be considered necessary and proper, any fishery or game laws of the state to the contrary notwithstanding.

GAME.

AN ACT concerning public offenses.

[Acts 1905, p. 584. Approved March 10, 1905. In force April 15, 1905.]

Deer—Turkey—Pheasant.

SEC. 593. Whoever shoots or destroys or pursues for the purpose of shooting or destroying or has in his possession, dead or alive, except for breeding purposes, any wild deer, buck, doe or fawn, wild turkey, or any pheasant of any species or kind, killed or bred in this state, shall, on conviction, be fined not less than fifty dollars nor more than two hundred dollars for each wild deer, buck, doe, fawn, wild turkey or pheasant of any species or kind so shot or destroyed, pursued or had in his possession: *Provided,* That the provisions of this section shall not apply to any person or person owning or having under his domain or control, any deer, buck, does, or fawn, bred or raised in any private deer park. (As amended. Acts 1907, p. 385.)

Quail—Netting or Trapping.

SEC. 594. Whoever nets or traps, or attempts to net or trap any quail; or whoever has in his possession any net or trap for the purpose of netting or trapping any quail at any time, shall, on conviction, be fined not less than ten dollars nor more than fifty dollars for each offense. Each act of netting or trapping, or attempting to net or trap quail, or each day's possession of such net or trap, shall be deemed and held to be a separate and distinct offense and punishable as such.

Quail—Number Can Shoot or Possess—Season.

SEC. 596. Whoever shoots, kills or has in his possession more than fifteen quail in any one day between the tenth day of November of any year and the first day of January of the succeeding year, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined ten dollars for each quail so shot, killed or possessed in excess of fifteen: *Provided,* That any person having hunted three days or more in succession may have a total of not to exceed forty-five quail, killed by himself during such hunt. (As amended. Acts 1907, p. 378.)

Quail—Selling.

SEC. 597. Whoever sells, or offers for sale, directly or indirectly, at any time, any quail, shall, on conviction, be fined ten dollars for each quail sold or offered for sale.

Wild Duck—Brant—Goose—Season.

SEC. 598. Whoever shoots or kills, or pursues for the purpose of shooting or killing or whoever has in his possession any wild goose, wild duck, brant or other waterfowl at any time from the fifteenth day of April of any year to the first day of September of the same year, or whoever at any time between sunset of any day and sunrise of the succeeding day shoots, kills, pursues for the purpose of shooting or killing any wild goose, wild duck, brant or other waterfowl or whoever at any time pursues any wild goose, wild duck, brant or other waterfowl with or by means of a naphtha, electric or steam launch or boat, or any other kind of boat except a row boat or push boat, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined ten dollars for each wild goose, wild duck, brant or other waterfowl so shot, killed, possessed or pursued. (As amended. Acts 1909, p. 327.)

SEC. 599. Whoever shoots or kills, or whoever has in his possession more than fifteen wild ducks, wild geese, brant or waterfowl in any one day at any time from the first day of September of any year, to the 15th day of April of the succeeding year, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined $10.00 for each wild goose, wild duck, brant or other waterfowl so shot, killed or possessed in excess of fifteen: *Provided,* That any person having hunted three days or more in succession, may have a total of not to exceed forty-five wild geese, wild ducks, brants or other waterfowl, killed by himself during such hunt. (As amended. Acts 1909, p. 327.)

Section 600 is repealed.

Squirrel Season.

SEC. 601. Whoever shoots or destroys, or pursues for the purpose of shooting or destroying, or has in his possession any wild squirrel, from the first day of November of any year to the first day of July of the succeeding year, shall, on conviction, be fined ten dollars for each squirrel so shot, destroyed, pursued or had in his possession. (As amended. Acts 1907, p. 136.)

Public Offenses—Hunting Wild Birds—Penalty.

SEC. 602. It shall be unlawful for any person to kill, trap or possess any wild bird, or to purchase or offer the same for sale, or to destroy the nest or eggs of any wild bird, except as otherwise provided in this section. But this section shall not apply to the following named game birds: The anatidae, commonly called swans, geese, brout, river and sea duck; the rallidae, commonly known as rails, coots, mudhens and gallinules; the linicolae, commonly known as shore birds, plovers, surf birds, snipe, woodcock, sand pipers, tatlers and curlews; the gallanie, commonly called wild turkeys, grouse, prairie chicken, quail and pheasant; nor to English or

European house sparrows, black birds, crows, hawks or other birds of prey. Nor shall this section apply to any person taking birds or their nests or eggs for scientific purposes under permit as provided in the next section. Any person violating the provisions of this section shall, on conviction, be fined not less than ten dollars ($10.00) nor more than fifty dollars ($50.00). (As amended. Acts 1913, p. 593.)

Permits—How Obtained—Bond.

SEC. 603. Permits may be granted by the commissioner of fisheries and game to any properly accredited person, permitting the holder thereof to collect birds, their nests or eggs for strictly scientific purposes. In order to obtain such permit the applicant for the same must present to such commissioner written testimonials from two well known scientific men certifying to the good character and fitness of such applicant to be entrusted with such privilege, and pay to such commissioner one dollar therefor, and file with him a properly executed bond in the sum of two hundred dollars, payable to the State of Indiana, conditioned that he will obey the terms of such permit, and signed by at least two responsible citizens of the state as sureties. The bond may be forfeited, and the permit revoked upon proof to the satisfaction of such commissioner that the holder of such permit has killed any bird or taken the nests or eggs of any bird for any other purpose than that named in this section.

Permit to Hunt—Enclosed Land.

SEC. 604. Whoever hunts with dog or ferrets, or whoever hunts or shoots with any kind of firearms, upon any land without first securing the consent of the owner or tenant thereof, shall, on conviction, be fined not less than ten dollars nor more than twenty-five dollars.

Injury to Property While Hunting.

SEC. 605. Whoever, while hunting upon the lands of another, carelessly or wantonly injures any cow, horse, hog, sheep, chicken, turkey, duck, or other property, either real or personal, of any person, shall, on conviction, be fined not less than the value of the property destroyed, or amount of the injury done, nor more than double the value of the property destroyed, or amount of the injury done.

Sunday Hunting.

SEC. 606. Whoever hunts or shoots wild birds, rabbits, or any species of game with any kind of firearms on the first day of the week, commonly called Sunday, shall, on conviction, be fined not less than one dollar nor more than fifty dollars.

Woodcock—Possession—Season.

SEC. 607. Whoever hunts, shoots, kills or has in his possession, any woodcock at any time from the first day of January of any year to the first day of July of the same year shall be guilty of a misdemeanor, and upon conviction thereof shall be fined ten dollars for each woodcock so hunted, shot, killed or possessed. (As amended. Acts 1907, p. 378.)

Residents—License to Hunt.

SEC. 609. It shall be unlawful for any person who is a resident of the State of Indiana to hunt or fish anywhere within the State of Indiana without first procuring a license to do so, and he may then hunt or fish only during the respective periods of the year when it shall be lawful to do so. In every county of this state having a population of less than two hundred thousand inhabitants according to the last preceding census, it shall be the duty of the clerk of the circuit court to issue such license to any resident of such county upon application of such person. Such license shall contain a description of such person, giving his age, weight, height, color of hair, color of eyes, complexion, and any distinctive mark or marks, and shall be signed by him in ink. Such license shall contain the signature of the commissioner of fisheries and game, and shall be countersigned by the clerk or agent issuing the same, and shall be good for one year from the date of issue. In all counties of this state having a population of two hundred thousand or more inhabitants, according to the last preceding census, the commissioner of fisheries and game, or agents, appointed by him for that purpose, shall issue licenses as described above to the residents of such county. The commissioner of fisheries and game shall furnish all necessary blank applications and licenses to the said clerks and appointees. Before the issuance of any such license the applicant shall pay to such clerk, commissioner of fisheries and game or his appointee, the sum of one dollar. Any person securing such license shall have the same in his possession when hunting or fishing, and shall show the same to the commissioner of fisheries and game or his deputy upon request: *Provided,* That no license shall be issued to any person under the age of fourteen years unless the application is endorsed in writing by the parent or guardian of such applicant: *Provided, further,* That the resident owner or owners of farm lands, their children living with them, or their tenants may fish or hunt upon the lands of which he or they are the bona fide owner, owners or tenants, during the respective seasons of the year when it shall be lawful so to do, without procuring such license: *Provided, further,* That any person may fish in the county in which he resides or in any county adjacent thereto without procuring such license: *Provided, further,* That all children under the age of eighteen, and the wife of a man who has procured

a license under the provisions of this section shall be permitted to fish only without securing a license: *and Provided, further,* That licenses to hunt in effect at the time of the taking effect of this act shall entitle the holders of them to hunt and fish, the same as licenses issued under this section. Whoever shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five dollars nor more than twenty-five dollars, and every day this section or any of its provisions is violated shall constitute a separate and distinct offense.

Funds Go to Fish and Game Commissioner.

SEC. 609a. The funds created by this act shall become a part of and be included in the fish and game protective and propagation fund, and said fund shall be expended in the propagation, protection and purchase of fish and game as provided by law. The commissioner of fisheries and game may employ such deputies and other assistants as may be necessary to render effective this and all other acts pertaining to fish, game, fur bearing animals or wild birds that are now or may hereafter be in force.

Repeal.

SEC. 609b. All laws and parts of laws in conflict herewith are hereby repealed.

Carriers Carrying Game Outside of State.

SEC. 610. It shall be unlawful for any railroad company, express company, or other common carrier, or other person, to transport, take or carry or receive for the purpose of transporting, taking or carrying beyond the limits of this state, any wild deer, buck, doe or fawn, any quail, wild duck, brant, wild goose, or other water fowl, ruffed grouse, pinnated grouse, prairie chicken, woodcock, wild turkey, or any pheasant of any kind or species (except as provided in the next section). Any railroad company, express company or other common carrier, or other person violating any of the provisions of this section shall, on conviction, be fined one hundred dollars for each such wild deer, buck, doe or fawn transported, taken or carried or received for the purpose of transportation, taking or carrying beyond the limits of this state; fifty dollars for each pheasant of any kind or species, or wild turkey so transported, taken or carried beyond the limits of this state, and ten dollars for each quail, wild duck, brant, wild goose, or other wild water fowl, ruffed grouse, pinnated grouse, prairie chicken or wood-cock transported, taken or carried or received for the purpose of being transported, taken or carried beyond the limits of this state.

Nonresidents—License—Form—Fee.

SEC. 611. It shall be unlawful for any person who is a nonresident of the State of Indiana to hunt any of the wild animals, fowls or birds that are protected by law during any part of the year, without first procuring a license to do so, and then only during the respective seasons of the year when it shall be lawful so to do. Such license shall be procured in the following manner, to wit: The applicant shall fill out a blank application to be furnished by the clerk of the circuit court of any county in the state, setting forth the name, place of residence, occupation, age, height, weight, complexion, color of hair, color of eyes, and any distinctive mark or marks of the applicant, which application shall be sworn to before some person authorized to administer oaths in the State of Indiana or the state in which the applicant resides. Upon the presentation of such application, together with a photograph of the applicant, to the clerk of the circuit court of any county in this State, such clerk shall issue to applicant a license to hunt anywhere in the State of Indiana. Such license shall have attached thereto the said photograph of the licensee, shall be good for one year from date of issue, and shall be substantially in the following form, to wit:

State of Indiana, County of ....., ss:

This certifies that ....., a resident of ..... county, state of ....., has this day complied with the law authorizing the issuance of hunting licenses to nonresidents of the State of Indiana, and is hereby authorized to hunt anywhere in the State of Indiana for the period of one year from this date.

Description of licensee: Age, ... years; height, ... feet ..... inches; weight, ... pounds; complexion, ...; color of hair, ...; color of eyes, ...; distinctive mark or marks, ...

Witness the signature of the clerk of said county and the seal of the circuit court of said county this the ..... day of ....., 19..

.....,
Clerk of ..... County Circuit Court.

Before the issuance of any such license the applicant shall pay to such clerk the sum of fifteen dollars and fifty cents, fifteen dollars of which shall be paid by said clerk to the treasurer of state as a part of the fish and game protective fund, as hereinafter provided, and fifty cents of which shall be reserved by the said clerk and disposed of as other fees of his office are disposed of. Any licensee under the provisions of this section is hereby authorized to kill and remove from this state not to exceed fifteen game birds of all kinds each day that he hunts in this state, which shall be carried openly for inspection, together with his license: *Provided*, That any licensee under this section who has hunted three days or more in [illegible] may take beyond the limits of

this state a total of not to exceed forty-five game birds of all kinds killed by himself during such hunt. Whoever shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than twenty-five dollars nor more than one hundred dollars, to which may be added imprisonment in the county jail for any period not less than thirty days nor more than sixty days. (As amended. Acts 1907, p. 378.)

AN ACT to protect certain game birds in the State of Indiana, and making it unlawful to hunt on game preserves organized and stocked with such game birds. Providing penalties for the violation thereof and repealing an act entitled "An act to protect certain birds of the pheasant kind in the State of Indiana, approved February 17, 1899, and declaring an emergency."

[Acts 1909, p. 275. Approved and in force March 6, 1909.]

Game Birds—Pheasant—Unlawful to Kill.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be unlawful for any person in the State of Indiana for and during the term of six (6) years from and after the passage of this act to injure, take, kill, expose or offer for sale, or have in possession, except for breeding purposes, any prairie chicken, any ringneck Mongolian pheasant, any green Japanese pheasant, any copper pheasant or scholmeringer, any tragophan pheasant, silver pheasant, golden pheasant, Hungarian pheasant or Hungarian partridge; or to hunt upon any game preserve organized and stocked with any of the above mentioned birds by the commissioner of fisheries and game: *Provided,* That any land owner living within the territory of the preserve may be permitted to hunt squirrels and rabbits on his own land only.

Misdemeanor—Penalty.

SEC. 2. Any person violating or attempting to violate the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by fine not less than twenty-five dollars, nor more than one hundred dollars.

Repeal.

SEC. 3. That the act approved February 24, 1905, entitled "An act to protect certain birds of the pheasant kind in the State of Indiana, repealing an act to protect certain birds of the pheasant kind in the State of Indiana, approved February 17, 1899, and declaring an emergency," approved February 24, 1905, and declaring an emergency, is hereby repealed.

ROAD SUPERVISORS ENFORCE GAME LAW.

AN ACT conferring the powers of constables on road supervisors in certain cases, and describing the same, and affixing a penalty for failure to discharge said duties.

[Acts 1889, p. 449. Approved March 11, 1889. In force May 10, 1889.]

Constable and Supervisors, Duties—Fee.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be the duty of the road supervisors to arrest or cause to be arrested, and to prosecute or cause to be prosecuted, any or all persons violating any of the provisions of the acts, or any law heretofore or hereafter to be enacted, for the protection of game and fish; and said road supervisors shall be allowed a fee of five dollars, to be taxed as costs against each person convicted of violating any of the provisions of said laws.

Penalties for Violation of Act.

SEC. 2. Any road supervisor who shall fail or refuse to discharge the duties of constables as aforesaid, and make or cause to be made said arrests, and prosecute or cause to be prosecuted all cases coming to his knowledge of violation of the game or fish laws of the state, shall, upon conviction, be fined in any sum not less than five nor more than twenty-five dollars.

CHAPTER 12.

AN ACT to prohibit the use of ferrets in hunting rabbits or any other species of game in the State of Indiana.

[S. 92. Approved February 12, 1913. p. 17.]

Hunting—Prohibiting Use of Ferrets.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be unlawful for any person to hunt, attempt to hunt, catch or in any manner take any rabbit or other species of game anywhere in this state with or by means of any ferret at any time.

Penalty.

SEC. 2. Whoever shall violate or attempt to violate the provisions of section one (1) of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten dollars ($10.00) nor more than twenty-five dollars ($25.00) for each offense.

CHAPTER 6.

AN ACT providing for the protection of certain wild fur-bearing animals.

[S. 30. Approved February 2, 1911. p. 8.]

Animals—Fur-bearing.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be unlawful for any person to take, trap, hunt, shoot or kill any mink, raccoon, opossum, skunk or muskrat, in the State of Indiana, during the months of April, May, June, July, August, September and October, of any year: *Provided,* That nothing in this act shall prevent any owner or occupant of real estate in this state, or the owner or manager of any levee, dyke, dam or public drain from killing any of said fur-bearing animals when necessary for the protection of their property.

Muskrat House.

SEC. 2. It shall be unlawful for any person or persons to injure or destroy any muskrat house at any time except where such muskrat house is an obstruction to public or private ditches or watercourses.

Penalty.

SEC. 3. Any person who shall violate any provision of this act shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than two dollars ($2.00) nor more than five dollars ($5.00) for each offense.

CHAPTER 99.

AN ACT to protect squirrels within or near public parks or grounds.

[H. 123. Approved March 2, 1911. p. 163.]

Public Parks—Squirrels.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be unlawful for any person in the State of Indiana to take, kill, or shoot at, or in any manner disturb any squirrel in any public park or state grounds, or within one-half mile thereof, in the State of Indiana.

Penalty.

SEC. 2. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction therefor shall be punished by a fine of not less than ten dollars ($10) nor more than fifty dollars ($50).

BIRDS.

AN ACT for the protection of birds, their nests and eggs.

[Acts 1891, p. 113. Approved and in force March 5, 1891.]

Birds.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be unlawful for any person to kill any wild bird other than a game bird, or purchase, offer for sale any such wild bird after it has been killed, or to destroy the nests or the eggs of any wild bird.

Game Birds.

SEC. 2. For the purpose of this act the following only shall be considered game birds: The anatidæ, commonly called swans, geese, brant, and river and sea ducks; the rallidæ, commonly known as rails, coots, mud-hens and gallinules; the limicolæ, commonly known as shore birds, plovers, surf birds, snipe, woodcock and sandpipers, tattlers and curlews; the gallinæ, commonly known as wild turkeys, grouse, prairie chickens, quail and pheasants, all of which are not intended to be affected by this act.

Penalty.

SEC. 3. Any person violating the provisions of section 1 of this act shall, upon conviction, be fined in a sum not less than ten nor more than fifty dollars, to which may be added imprisonment for net less than five days nor more than thirty days.

Permits.

SEC. 4. Sections 1 and 2 of this act shall not apply to any person holding a permit giving the right to take birds or their nests and eggs for scientific purpose, as provided in section 5 of this act.

Permits to Science.

SEC. 5. Permits may be granted by the executive board of the Indiana academy of science to any properly accredited person, permitting the holder thereof to collect birds, their nests or eggs for strictly scientific purposes. In order to obtain such permit the applicant for the same must present to said board written testimonials from two well known scientific men certifying the good character and fitness of said applicant to be entrusted with such privilege, and pay to said board one dollar to defray the necessary

expenses attending the granting of such permit, and must file with said board a properly executed bond in the sum of two hundred dollars, signed by at least two responsible citizens of the state as sureties. The bond shall be forfeited to the state, and the permit become void upon proof that the holder of such permit has killed any bird or taken the nests or eggs of any bird for any other purpose than that named in this section, and shall further be subject for each offense to the penalties provided in this act.

Two Years.

SEC. 6. The permits authorized by this act shall be in force for two years only from the date of their issue, and shall not be transferable.

Birds of Prey.

SEC. 7. The English or European house sparrow (passer domesticus), crows, hawks and other birds of prey, are not included among the birds protected by this act.

Acts Repealed.

SEC. 8. All acts or parts of acts heretofore passed in conflict with the provisions of this act are hereby repealed.

Emergency.

SEC. 9. An emergency is declared to exist for the immediate taking effect of this act, therefore the same shall be in force and effect from and after its passage.

CHAPTER 29.

AN ACT concerning public offenses and providing penalty.

[H. 135. Approved February 24, 1913.]

Hunting Homing Pigeons—Penalty.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That whoever pursues, hunts or kills any homing pigeon shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined in any sum not less than $10.00 nor more than $100, or imprisoned in the county jail not less than ten days nor more than thirty days, or both, in the discretion of the court.

FORESTRY.

AN ACT to establish a state board of forestry, defining its powers and duties, and creating the office of state forester and secretary of said board, and fixing the amount of his salary and allowance for his expenses.

[H. 192. Acts 1901, p. 62. Approved March 1, 1901.]

State Board Created—Forestry—Secretary—Salary.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That a board is hereby created and established which shall be known under the name of the state board of forestry. It shall consist of five members, who shall be appointed by the governor, as follows: One from the membership of the Hardwood Lumber Dealers' association of Indiana, one from the membership of the Retail Lumber Dealers' association of Indiana, one from the faculty of Purdue university, one who is actively engaged in farming and one who shall have special knowledge of the theory and art of forest preservation and timber culture and technical knowledge of the topography of the state, and the last described member, shall, upon his appointment and qualification become and be the secretary of said board, ex-officio state forester and superintendent of state forest reserves. All of said members shall hold their offices for a term of four years, and each of said members, except the secretary, who is hereinafter provided for, shall receive a salary of one hundred dollars per annum and mileage not to exceed three cents a mile for necessary miles traveled in attending necessary meetings of said board. Said salary and mileage shall be paid out of the treasury of the state upon warrants of the auditor of state, and the members shall certify the amount due them, separately, upon vouchers duly attested before some officer authorized to administer oaths. A majority of said board shall constitute a quorum, and said board shall annually elect from its number a president: *Provided,* That members of the board heretofore appointed shall serve during the term for which they were appointed.

[As amended. Acts 1903, p. 111.]

Oath of Office.

SEC. 2. Before entering upon the discharge of their duties. the members of said board shall each take and subscribe an oath of office before the clerk of the supreme court that they will faithfully and honestly discharge the duties of said offices, which oath of office shall be filed in the office of the secretary of state.

Board Meetings.

SEC. 3. The board shall meet at least once each quarter in the city of Indianapolis and as often as they may deem necessary upon five days' notice signed by the president and secretary, and in the absence of the president, a chairman shall be chosen to preside. The minutes of all meetings shall be recorded by the secretary in a book to be kept for that purpose.

Duties of Board.

SEC. 4. It shall be the duty of said board to collect, digest and classify information respecting forests, timber lands, forest preservation and timber culture, and to recommend plans and methods for forest preservation and timber culture and for the establishment of state forest reserves. The board shall, annually, on or before the first day of December, file with the governor a report.

Office of Secretary.

SEC. 5. The secretary of the board shall keep his office at Indianapolis, in a room to be furnished said board by the custodian of the state house, and shall perform such duties as are prescribed by this act or may be required by the board; and he shall, as far as practicable, submit to the associations and meetings of timber dealers, woodworkers, farmers and engineers of maintenance of way of railroads, information and facts as to forests and timber.

[Acts 1903, p. 111. Approved and in force February 28, 1903.]

Salary and Expense of Secretary.

SEC. 6. The secretary shall receive an annual salary of eighteen hundred dollars. For expenses of office and traveling, an amount not exceeding $1,000; clerk six hundred dollars ($600). Said secretary shall give his exclusive time and attention to said office and shall not hold any other office, appointment or position other than herein provided for. The president of the board shall quarterly certify the amount due the secretary upon vouchers duly attested by the secretary before some officer authorized to administer oaths, and the amount so certified shall be paid to the secretary out of the treasury of the state upon warrant of the auditor of state. That expenses of publication shall be paid from expense fund of the state printing board.

AN ACT giving the state board of forestry the right to grant and convey by deed rights-of-way to electric and steam railroads and to telegraph and telephone companies for the purpose of constructing and operating their lines across the lands of the Indiana state forest reservation, laboratory of forestry demonstration and state nurseries, and upon such terms and conditions as shall be approved by the governor, the auditor and the attorney-general, and declaring an emergency.

[H. 206. Acts 1907, p. 81. Approved February 26, 1907.]

Board of Forestry—Rights-of-Way—Deed.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the state board of forestry shall have the right to grant and convey by deed rights-of-way to electric and steam railroads and to telegraph and telephone companies to construct and operate their lines across the lands of the Indiana state forestry reservation, laboratory of forestry demonstration and state nurseries.

Approval.

SEC. 2. The terms and conditions upon which such rights-of-way are granted and conveyed by deed shall be submitted to and approved by the governor, the attorney-general and the auditor of state, before the same shall become operative or possession taken thereunder.

Emergency.

SEC. 3. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force and effect from and after its passage.

CHAPTER 160.

AN ACT concerning Arbor day, and repealing all laws and parts of laws in conflict therewith.

[H. 339. Approved March 10, 1913. p. 422.]

Schools—Arbor Day—Fixing Date.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That for the purpose of encouraging the planting of shade and forest trees, shrubs and vines, the third Friday of April in each year is hereby designated as a day for general observance and to be known as Arbor Day.

Proclamation.

SEC. 2. The governor shall make proclamation of said day in each year at least thirty days prior thereto.

School Exercises.

SEC. 3. Appropriate exercises shall be introduced in all the schools of the state; and it shall be the duty of the several county and city superintendents to prepare a program of exercises for that day to be observed in all the schools under their respective jurisdictions. The exercises on arbor day shall give due honor to the conservors of forestry, and the founders of the study and conservation of Indiana forestry. And especially to the leading spirit of Indiana forestry conservation, Charles Warren Fairbanks.

Repeal.

SEC. 4. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

CHAPTER 13.

AN ACT concerning forestry.

[S. 96. Approved February 12, 1913. p. 18.]

Corporations—Forestry Associations.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That any number of persons not less than five may voluntarily associate themselves by written articles of association, in duplicate, signed and acknowledged by each person who may be a member at the time of the organization, specifying the name of such association as the forestry association of the county, city, town or township, as the case may be, where it is contemplated to establish and maintain a public forest; one copy to be filed with the recorder of the county, which shall be recorded in the proper book in such office; the other to be filed with the secretary of the Indiana forestry association. And thereupon such association shall become a corporation perpetually with powers to establish and maintain forests for the uses and purposes herein provided. Any person may become a member of the association by consent of the forestry board named in this act. Such association may establish annual and life membership fees, Every such association shall become affiliated with the Indiana forestry association without charge under such rules and regulations as that association may from time to time provide.

Forestry Board and Officers.

SEC. 2. Every association shall name in its articles five (5) persons of the county interested in the subject of forestry as the forestry board of such association. The board shall choose from their number a president, secretary and treasurer and forester, and fix their duties and require bonds for the performance of such duties. Upon the death, resignation or removal of any member of

such board the members of that association shall select some fit person to fill such vacancy; and all vacancies shall be filled by the remaining members of such association. The members of the board shall serve without compensation and hold during good behavior.

Gifts—Property Non-Taxable.

SEC. 3. Every such association may accept gifts of money, lands, and property for its use in acquiring and maintaining forests. And for that purpose it may acquire title to lands by gift, devise or purchase. The title to all property howsoever given or acquired shall vest in such forestry board and the same shall not be sold or incumbered, but shall be held in perpetuity for forestry purposes for the benefit of the public. The property of such association shall not be taxable for state, county, township, town, or any other purposes. In case any local association shall lapse or cease to maintain its organization, the title to the lands held by it shall vest in the State of Indiana.

County Commissioners and Common Councils—Donations.

SEC. 4. It shall be lawful for the boards of commissioners of the several counties of this state and the common councils and boards of trustees of the cities and towns in any county and the trustees of any township where any forest is established to assist in acquiring and maintaining the same by contributions to such associations which may be sums in gross or annual payments from year to year as may be determined at the time of the making or adoption of the order of [or] ordinance therefor. All such funds shall be used only by the forestry board of the association for the purchase, improvement and development of the forests to which the same may be dedicated and shall continue irrevocable for the time or period specified in such order or ordinance. A copy of every such order or ordinance shall be filed in the office of the recorder of the county and a duplicate thereof with the secretary of the Indiana forestry association.

Description of Land—Report.

SEC. 5. Every association acquiring land by gift, devise, purchase, or otherwise, shall report in writing to the secretary of the Indiana forestry association a description of such land and how and from whom acquired and the cost thereof, if any.

Forestry Lands Cultivated—Maintenance.

SEC. 6. It shall be the duty of the forestry board of every forestry association to plant, protect and cultivate the forestry

lands authorized to be acquired by this act in such a way as to produce trees of the kinds well suited for lumber and other purposes; and the product of the forest when sold by such forestry board and any other moneys arising on account of such lands shall be used for acquiring other lands for and reforesting and maintaining the forest so that the same may be means of affording the enlargement, continuance and maintenance of the forest in perpetuity; any surplus not so required to go to the school fund of this state.

Forest Used as Playgrounds.

SEC. 7. The forestry board shall have power to permit the forest to be used as playgrounds, for picnics, and other meetings for the pleasure, health and enjoyment of the people, when the same can be had without injury to the forest, and free of charge, under such rules and regulations as the forestry board may from time to time adopt and provide.

Penalty.

SEC. 8. After the establishment of any such forest it shall be a misdemeanor for any person to injure, deface, harm or destroy any tree in such forest without the consent of the forestry board. Any offender upon complaint of any member of the forestry board shall be arrested and fined by any justice of the peace in any sum not less than five times the value of the tree destroyed or the injury done, which sum when recovered shall be paid to the forestry board and become a part of the fund for the maintenance of the forest.

Employment of Foresters.

SEC. 9. When necessary the forestry board shall have power to employ foresters and others to plant, protect, cultivate and maintain the forest.

President Member of State Association.

SEC. 10. The president of every forestry board shall ex-officio be a member of the Indiana forestry association.

Use of Forest by Teachers.

SEC. 11. Any teacher in any of the public schools or universities of this state giving instruction on the subject of forestry shall have the right without charge to take the pupils and students of such school to any public forest as a means of giving instruction on the subject of forestry.

Construction of Act.

SEC. 12. This act shall be liberally construed and so as to encourage and promote forestry throughout the state. And for such purpose the legislature reserves the right to amend this act from time to time when it shall be necessary to further the purposes of this act.

SETTING WOODS ON FIRE.

AN ACT providing for protection to forests and repealing an act entitled "An act for the encouragement of forestry," which became a law without the governor's signature on March the 8th, 1899, and printed at page 570 of the published acts of that year.

[Acts 1905, p. 64. Approved February 27, 1905. In force April 15, 1905.]

Forestry—Setting Fire to Woods—Penalty—Prosecutor.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That any person who shall set fire to any woods belonging to another or shall place a fire on his property and permit it to spread to the woods of another shall be liable to a fine of not less than $5.00 or more than $50.00, and furthermore, shall be liable to the owner or owners for the full damages sustained by reason thereof, and it shall be the duty of the prosecuting attorney of the county to faithfully investigate and prosecute each and every case, and any failure to so do by him shall be sufficient evidence for his removal from office, and his bondsmen shall become liable for the full damage hereof sustained.

Road Supervisor—Duty as to Fire.

SEC. 2. It shall be the duty of the township road supervisor when any woods, as in section 1, shall become on fire in his road district to employ such help as he may need to extinguish such fire, and himself and such help as he employs shall be paid by the township trustee from the general expense funds of the township at the rate of $1.50 per day for the time actually occupied in extinguishing such fire.

Repeal.

SEC. 3. That an act entitled "An act for the encouragement of forestry," which became a law without the governor's signature March 8, 1899, and printed at page 570 of the published acts of that year, be and the same is hereby repealed.

FRAUDULENT SALE OF FRUIT TREES.

AN ACT prohibiting the sale of any fruit tree or fruit trees of a certain kind, variety or description and the delivery thereafter with the intent to deceive to the purchaser of a fruit tree or fruit trees of a different kind, variety or description, and providing penalties for the violation thereof, and prescribing the time within which prosecutions under this act may be commenced.

[Acts 1905, p. 450. Approved March 6, 1905. In force April 15, 1905.]

Fruit Trees—Misrepresentation.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be unlawful for any person, persons, firm or corporation, acting either as principal or agent, to sell to any person, persons, firm or corporation any fruit tree or fruit trees representing same to be of a certain kind, variety and description and thereafter to deliver to such purchaser in filling such order and in completing such sale a fruit tree or fruit trees of a different kind, variety or description than the kind, variety or description of such fruit tree or fruit trees so ordered and sold.

Penalty.

SEC. 2. Any person violating any provisions of this act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than fifty ($50.00) dollars nor more than five hundred ($500.00) dollars.

Prosecutions.

SEC. 3. Prosecutions under this act may be commenced at any time within five years from the time of the delivery of such fruit tree or fruit trees mentioned in section 1.

STATE ENTOMOLOGIST.

AN ACT to provide for the appointment of a state entomologist, defining his powers, prescribing his duties, fixing his compensation, providing for the inspection of nursery stock, and to prevent the dissemination of the San Jose scale and other dangerously injurious insects and plant diseases, defining the penalties for the violation of this act, making an appropriation therefor, repealing all laws in conflict herewith, and declaring an emergency.

[S. 148. Acts 1907, p. 291. Approved March 9, 1907.]

State Entomologist—Appointment—Salary—Clerk.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the governor shall appoint a state entomologist,

who shall be a competent entomologist and versed in practical horticulture. Said state entomologist shall be appointed for a period of four (4) years: *Provided,* That the governor may remove said state entomologist at any time for cause. In case of death, resignation or removal of state entomologist, the governor shall appoint a successor to fill out the unexpired portion of said term of four years. The state entomologist shall receive a salary of fifteen hundred dollars ($1,500) per annum, and necessary expenses while traveling in the actual discharge of his official duties. All such expenses shall be duly itemized and sworn to by such state entomologist. The state entomologist shall appoint a clerk at a salary not exceeding a salary of seven hundred and twenty dollars ($720.00) per year. The office of such entomologist shall be in the state house; and the custodian shall select and set apart a room for the use of such entomologist and equip it with proper and necessary office furniture.

Duties—San Jose Scale—Report.

SEC. 2. The state entomologist shall devote his entire time to the discharge of the duties of his office. He shall co-operate with any local horticultural society or individual in the state in any efforts to locate, check or eradicate the San Jose scale or any insect pest injurious to orchard or field crops, or to shade and ornamental trees. He shall also assist in identifying and combating fungus or other destructive diseases to plant life. In the discharge of his duties he shall go to any part of the state where his services are requested and his duties will permit. He shall immediately upon taking his office prepare and cause to be published, and from time to time thereafter, in pamphlet form, all available information relating to San Jose scale and other injurious plant diseases, with the methods of detecting the same and the modes of treatment. He shall send a copy of such pamphlet to each township trustee, city clerk, public school teacher and any other citizen of the state applying for the same for the purpose of informing the people of the history, habits and methods of eradicating injurious insects and plant diseases. He shall make an annual report to the governor of the work done by his office and with other matters contained in that report shall be a list of all townships in the state where the San Jose scale is known to exist.

Nursery Inspection.

SEC. 3. The state entomologist shall inspect all nurseries in Indiana, where trees, shrubs, vines, plants or other nursery stock are grown and offered for sale at least once each year, not earlier than June 1st, nor later than October 1st, at such times as he may elect, and he shall notify in writing, the owner of such nurseries, the secretary of the state board of agriculture, the director of the

state agricultural experiment station, and the president of the state horticultural society, of the presence of any San Jose scale or other destructive injurious insects of [or] fungi on trees, shrubs, vines, plants or other stock of such nurseries and shall notify in writing the owner of any affected stock that he is required on or before a certain day to take such measures for the destruction of such insects or fungus enemies of nursery stock as have been shown to be effectual for this purpose. The said state entomologist is hereby empowered with the authority to enter upon any premises and examine all trees, plants, shrubs, vines and fruits whatsoever in the discharge of their [his] duties prescribed by law.

Obstructing Inspection—Penalty.

SEC. 4. Any person or persons who shall obstruct or hinder said state entomologist in the discharge of his duties, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than ten dollars nor more than twenty-five dollars.

Nurserymen—Duties—Penalty.

SEC. 5. The owner of any affected nursery stock shall within the time specified, take such steps for the destruction of San Jose scale or other destructively injurious insects or fungus enemies, present as will exterminate the same and it shall be a misdemeanor to ship or deliver any such stock, punishable by a fine of twenty-five dollars ($25.00) for every such offense, the fine recoverable before a justice of the peace, or by indictment of the grand jury of the county in which the nursery is situated, or of that to which such stock may have been shipped.

Nursery Certificate—Penalty.

SEC. 6. Whenever a nurseryman or seller of trees, shrubs, vines or plants or other nursery stock, who is a resident of this state, shall ship or deliver any such goods, he shall send on each package so shipped or delivered a written or printed certificate, stating that such stock has been examined by the state entomologist and found, to the best of his knowledge and belief to be free from San Jose scale or other destructively injurious insects or fungus enemies. Failure to furnish such certificates, or furnishing of a false certificate, shall render him liable to the penalty of a fine of twenty-five dollars ($25.00) for each and every shipment or delivery without such certificate.

Entomologist—Filing of Certificates.

SEC. 7. When the state entomologist examines any trees, shrubs, vines, plants or other nursery stock in this state, under the surpervisions of this act and finds such nursery stock free from San Jose scale and other destructively injurious insects and fun-

gus enemies, he is hereby authorized and directed to make out and deliver in writing, to the owner of such stock a certificate stating that he has inspected such stock and found the same free from San Jose scale and other destructively injurious insect and fungus ememies, and he shall file similar certificates with the secretary of the state board of agriculture, the president of the state horticultural society, and the director of the state agricultural experiment station, which certificates shall at all times be subject to public inspection.

Shipments Into State—Certificate.

SEC. 8. Every package of trees, shrubs, vines, plants or other nursery stock shipped into this state from another state shall be plainly labeled on the outside with the name of the consignor, the name of the consignee, and a certificate signed by the state or government inspector showing that the contents have been examined by him, and that to the best of his knowledge and belief such stock is free from San Jose scale or other destructive insect or fungus enemies.

Shipments Without Certificate—Penalties.

SEC. 9. Whenever any trees, shrubs, vines or other plants are shipped into the state without such certificate plainly fixed on the outside of the package, box or car containing the same, the fact must be reported within twenty-four (24) hours to the state entomologist by the agent of the railway, express or steamboat company, or other person or persons carrying or receiving the same, and any agent of any railway, express or steamboat company or mail carrier or any other person or persons who shall violate the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00) and costs, or imprisonment in the county jail not less than five (5) nor more than thirty (30) days, or may be so fined and imprisoned in the discretion of the court, and any such fines collected under the provisions of this act, shall be paid over to the state treasurer. On notification of the receipt of such uncertified package or packages of trees, shrubs, vines or other plants, the state entomologist shall examine or cause to be examined said package or packages at the expense of the express, railway, steamboat companies, or other person or persons carrying the same, and if found to be free from all injurious insects and plant diseases, he may allow then to pass to their destination, otherwise he shall cause the same to be burned and destroyed. But in no case shall the agent of the railway or other transportation company allow said package or packages to pass out of his possession under penalty, until the same has been duly inspected by the state entomologist or his agent.

Appropriation.

SEC. 10. The sum of three thousand five hundred dollars ($3,500.00) annually, or so much as may be necessary thereof is hereby appropriated out of any moneys in the state treasury not otherwise appropriated for the purpose of paying the salaries and expenses as provided for in this act. The auditor of state is hereby directed to honor requisitions made by the state entomologist for salaries and all expenses when properly audited. The state entomologist shall make an annual report to the governor of the items and total amount expended.

Repeal.

SEC. 11. All laws and parts of laws in conflict are hereby repealed.

Emergency.

SEC. 12. Whereas an emergency is declared to exist, this act shall take effect from and after its passage.

AUTOMOBILES.

AN ACT to regulate the speed, operation and registration of locomobiles, automobiles, motor cycles or other motor vehicles upon public highways, and providing penalties.

[Acts 1905, p. 202. Approved March 6, 1905. In force April 15, 1905.]

Motor Vehicles Defined.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the words and phrases used in this act shall for the purpose of this act only be construed as follows: 1, "Motor vehicles" shall include all vehicles propelled by any power other than muscular power, excepting traction engines, road rollers and such motor vehicles as run only upon rails or track.

SEC. 2. That any person or persons operating a motor vehicle on any public highway or in any public place shall not operate the same at any rate of speed greater than is reasonable and proper, having regard to the use in common of such highway or place, or so as to endanger the life or limb of any person, and in no event shall such motor vehicle be operated at a greater rate of speed than eight (8) miles an hour in the business and closely built up portions of any municipality of this state, nor more than fifteen (15) miles an hour in any other portions of such municipalities, nor more than twenty (20) miles an hour outside such municipalities. Upon approaching a bridge, dam, sharp curve,

or steep descent and also in traversing such bridge, dam, curve or descent, and upon approaching a crossing of intersecting highways, a person operating a motor vehicle shall have it under control and operate it at a speed not greater than is reasonable and proper, having regard to the safety of traffic then on such highway and of the public: *Provided, further,* That after dark all automobiles shall carry lighted lamps. (As amended. Acts 1907, p. 558.)

Ordinances as to Speed.

SEC. 3. That any rate of speed provided in section two (2) of this act shall not be diminished nor prohibited by any ordinance, rule or regulation of any municipality, board or other public authorities.

Motor Equipment—Signals.

SEC. 4. Any person or persons operating a motor vehicle shall at all times provide the same with a good and efficient brake and a suitable bell, horn or other signal, and shall upon approaching any person or persons riding, leading or driving a horse, horses, draft animals or other farm animals upon any public highway or in any public place, signal such person or persons with said bell or horn either upon overtaking or meeting any such person or persons, giving such person or persons a reasonable time to prepare for the passing of said motor vehicle.

Highway Rules—Speed—Passing Teams on Highway.

SEC. 5. Any person or persons operating a motor vehicle shall upon meeting any person or persons riding, leading or driving a horse, horses or other draft animals or other farm animals on any public highway, proceed at a speed not to exceed six miles per hour until past such horse, horses or other draft animals or other farm animals, and upon request or signal by putting up the hand from any such person or persons so riding, leading or driving any horse, horses or other draft animals or other farm animals (if in sufficient light for such signal to be perceptible), immediately bring his motor vehicle to a stop and remain stationary so long as may be reasonable to allow such horse, horses or other draft animals or other farm animals to pass, and upon request shall furnish such aid as may be necessary to such person or persons; and upon overtaking on any public highway any person or persons riding, leading or driving a horse, horses or other draft animals or other farm animals the operator of any motor vehicle when signaled as above provided, shall reduce the speed of such motor vehicle and before passing shall allow reasonable time for such animal to be driven or conducted to the right side of the road: *Provided,* That the driver of any horse, horses or other draft animals or other farm animals shall upon the approach of any motor vehicle, travel-

ing in the opposite direction, drive to the right so as to give to said motor vehicle one-half of the traveled portion of the highway or street, and upon the approach of any such motor vehicle traveling in the same direction, the said driver of any such animal or animals shall upon signal of bell or horn from any such motor vehicle drive to the right with reasonable promptitude so as to give to said motor vehicle one-half of the traveled portion of the said highway or street, and the operator of any motor vehicle upon the approach of any driver of horse, horses or other draft animals or other farm animals, moving in the opposite direction, shall drive his motor vehicle to the right so as to give one-half of the traveled portion of the highway or street to the driver of said horse, horses or other farm animals. It shall be a misdemeanor for any person to operate a motor vehicle of any kind upon any public highway or street while intoxicated, or under the influence of intoxicating liquor, and upon conviction he shall be subject to punishment by a fine not exceeding one hundred dollars, or imprisonment in the county jail for not more than six months, or by both such fine and imprisonment, in the discretion of the court.
(As amended. Acts 1909, p. 328.)

Owner to Register with Secretary of State.

SEC. 6. That every owner of a motor vehicle shall, for every such vehicle owned by him, file in the office of the secretary of state a statement of his name and address, with a brief description of the vehicle to be registered on a blank, to be prepared and furnished by such secretary for that purpose. The filing fee shall be one dollar ($1.00); all of which fees to be paid into the general fund of the state treasury as other fees now collected by the secretary of state are required to be paid into the treasury.

Assignment of Number.

SEC. 7. The secretary of state shall thereupon file such statement in his office, register such motor vehicle in a book to be kept for that purpose and assign it a number in the order of filing. Such numbers shall be determined and arranged as follows: Numbers shall be in series of one hundred, of which the first shall consist of the numbers A1, A2, A3, and so on to A100 inclusive; the second series shall consist of the numbers B1, B2, B3 and so on to B100 inclusive; the following series shall be arranged in the same way, taking each letter of the alphabet in order until all such letters have been so used; the twenty-sixth will thus consist of the numbers from Z1 to Z100 inclusive. The twenty-seventh series shall then consist of the numbers A O-1, A O-2, A O-3 and so on to A O-100 inclusive, and the following series shall be arranged in the same way, using all the letters of the alphabet. If it shall be found necessary to use a third or further additional set of such series numbers, such third set shall consist of numbers beginning with A1-1, A1-2, and so on to A1-100 inclusive, and similar series

shall be arranged for the succeeding letters of the alphabet and, if necessary, additional sets of such series numbers shall be formed in the same way. (As amended. Acts 1907, p. 558.)

Acquiring Motor—Registering.

SEC. 8. Every person acquiring a motor vehicle shall file a like statement with the secretary of state, and such secretary of state shall in like manner file such vehicle and assign it a number. If the vehicle has previously been registered such fact and number assigned it shall be set forth in the statement, and the previous registration shall be canceled, but the number of such previous registration may be assigned under the new registration.

Metal Seal—Display on Vehicle.

SEC. 9. The secretary of state shall forthwith on such registration and without other fee issue and deliver to the owner of such motor vehicle a seal of aluminum or other suitable metal, which shall be circular in form and two (2) inches in diameter, and have stamped therein the words "Registered in the office of secretary of state of Indiana under the motor vehicle law, No —," with the registration number inserted therein, which seal shall thereafter at all times be conspicuously displayed on the motor vehicle to which such number has been assigned.

Motor Vehicle—Number Plate—Town or City License.

SEC. 10. Every motor vehicle shall also at all times have the number assigned to it by the secretary of state displayed both on the front and on the back of such motor vehicle in such manner as to be plainly visible, the number to be Arabic numerals in white upon a black ground, each four (4) inches in height, and each stroke to be of a width one-half (½) inch, and also as a part of such number the first three (3) letters of the state name, all letters to be four (4) inches in height, and no other designating mark shall be required by any city, town or other municipality, but nothing herein contained shall prevent any city or town from requiring the payment of a license by the owners of automobiles owned and operated in such city or town: *Provided*, That the requirements of this section, so far as the same relate to the display of a number upon the front end of such motor vehicle shall not apply to motor cycles. (As amended. Acts 1911, p. 641.)

Registration by Manufacturer or Dealer.

SEC. 11. "Registration by manufacturers or dealers." A manufacturer of, or a dealer in motor vehicles shall register one (1) of each style to be manufactured or dealt in by him, and be entitled to as many duplicate registration seals for each type or style so manufactured or dealt in as he may desire on payment of

an additional fee of fifty (50) cents for each duplicate seal. If a registration seal and the corresponding number shall thereafter be affixed to and displayed on every vehicle of such type or style as in this section provided, while such vehicle is being operated on the public highways, it shall be deemed a sufficient compliance with sections six (6), eight (8) and ten (10) of this act, until such vehicle shall be sold or let for hire. Nothing in this section shall be construed to apply to a motor vehicle employed by a manufacturer or dealer for private use or for hire.

Non-Residents.

SEC. 12. The provisions of sections seven (7) to ten (10), inclusive, shall not apply to motor vehicles owned and operated by non-residents of this state, provided the owners thereof have complied with any law requiring the registration of owners or in force in the state, territory or federal district of their residence, and the registration number showing the initial of such state, territory or federal district shall be displayed on such vehicle substantially as provided by section ten (10) of this act.

Penalties.

SEC. 13. If any person neglects or refuses to comply with any of the provisions of this act he shall on conviction thereof before any justice of the peace or other court having jurisdiction, be fined not more than fifty ($50.00) dollars for a first offense and shall be fined not more than one hundred ($100.00) dollars for a second offense, and shall be fined not more than two hundred ($200.00) for a third or subsequent offense. (As amended. Acts 1907, p. 558.)

Repeal.

SEC. 14. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

CHAPTER 200.

AN ACT to regulate the operation and speed of motor boats or water vehicles propelled by mechanism of any kind operated on the lakes, rivers or waters contained within the State of Indiana and providing penalties for the violation thereof.

[H. 410. Approved March 13, 1913. p. 597.]

Motor Boats—Equipped with Mufflers.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be unlawful for any person, firm or corporation to operate upon the lakes, rivers, waterways or other waters

in Indiana any motor boat, gasoline launch or other conveyances, the motive power of which shall be an engine or engines using steam, gas or gasoline or any sort of energy of like source unless such water craft shall be equipped with a modern and improved muffler sufficient to prevent noise from the exhaust of such engine or engines of such vehicle and said muffler shall be kept and remain closed by the person or persons operating or in charge of said motor boat, gasoline launch or other conveyance at all times when such engine or engines are in operation.

Regulation of Speed.

SEC. 2. It shall be unlawful for any person, firm or corporation to operate upon the lakes, rivers, waterways or other waters in Indiana any motor boat, gasoline launch or other conveyance, the motive power of which shall be an engine or engines using steam, gas or gasoline or any sort of energy of like source at a greater rate of speed than ten miles per hour between the time of sunset and sunrise.

Penalty.

SEC. 3. Any person, firm or corporation violating any provision of this act shall be guilty of a misdemeanor and upon conviction shall be fined not less than $1.00 nor more than $100 to which may be added a term in the county jail or workhouse not to exceed one month; and upon a second conviction for such misdemeanor such person, firm or corporation shall be fined not less than $25.00 to which may be added not to exceed six months in the county jail or workhouse; and upon a third conviction for such misdemeanor said person, firm or corporation shall be fined not less than $50.00 to which shall be added not less than thirty days in the county jail or workhouse.

CHAPTER 300..

AN ACT defining motor vehicles and providing for the registration, numbering and regulation of same, defining chauffeurs and providing for the examination and licensing thereof, and providing for punishment for the violation of any of the provisions of this act.

[S. 205. Approved March 15, 1913. p. 779.]

Motor Vehicle Registration.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That whenever the term "motor vehicle" is used in this act it shall be construed to include automobiles, locomobiles and all other vehicles propelled otherwise than by muscular power, except motor bicycles, traction engines, road rollers, and motor vehicles

running only upon rails or tracks, fire wagons and engines, ambulances and police patrol wagons, but nothing in this act shall be construed to apply to or affect bicycles or tricycles or such other vehicles as are propelled exclusively by muscular power. The term "local authorities" shall include all officers of counties, cities or towns as well as all boards and other public officials of such counties, cities and towns. The term "chauffeur" shall mean any person operating or driving a motor vehicle as an employe or for hire. The term "state" as used in this act, except when otherwise expressly provided, shall also include the territories and the federal districts of the United States. The term "owner" shall also include any persons, firm, association or corporation renting a motor vehicle or having the exclusive use thereof, under a lease or otherwise, for a period longer than thirty days. The term "public highway" shall include any highway, country road, state road, public street, avenue, alley, park, parkway or public place in any county, city or town, except any speedway which may have been or may be expressly set apart by law for the exclusive use of horses and light carriages.

Application for Registration.

SEC. 2. Every owner of a motor vehicle or motor bicycle which shall be operated upon the public highways of the state, shall, except as herein otherwise expressly provided, within ten days after he becomes the owner, cause to be filed, by mail or otherwise, in the office of the secretary of state a verified application for registration on a blank to be furnished by the secretary of state for that purpose, containing a brief description of the motor vehicle or motor bicycle to be registered, including the name of the manufacturer and factory number of such vehicle, the character and amount of the motive power stated in figures of horsepower in accordance with the rating established by the association of licensed automobile manufacturers, the name, age, residence, including county and business address of the owner of such motor vehicle or motor bicycle: *Provided*, That if such motor vehicle is used or to be used solely for commercial purposes, the applicant shall so certify.

Filing Application.

SEC. 3. Upon receipt of an application for registration of a motor vehicle or motor bicycle, the secretary of state shall file such application in his office and register such motor vehicle or bicycle with the name, residence and business address of the owner, manufacturer or dealer as the case may be, together with the facts stated in such application in a book or index to be kept for the purpose, under the distinctive number assigned to such vehicle by the secretary of state, which book or index shall be open to public inspection during reasonable business hours.

Certificate and Number Plates.

SEC. 4. Upon the filing of such application and the payment of the fee hereinafter provided, the secretary of state shall assign to such motor vehicle a distinctive number, and without expense to the applicant, issue and deliver in such manner as the secretary of state may select to the owner a certificate of registration in such form as the secretary of state shall prescribe, and two number plates at a place within the State of Indiana named by the applicant in his application. In the event of the loss, mutilation or destruction of any certificate of registration, number plate, license or badge, the owner of a registered motor vehicle or bicycle, or manufacturer, or dealer, or chauffeur, as the case may be, may obtain from the secretary of state a duplicate thereof upon filing in the office of the secretary of state an affidavit showing such fact and the payment of a fee of one dollar.

Registration for Less than One Year.

SEC. 5. Registrations shall be made to expire on December 31st of each year. All registrations applied for in 1913 shall be pro rated in proportion to the number of months included between the first day of the month in which any such registration was applied for, and the 31st day of December. Thereafter each registration issued prior to August 1st of any year shall be charged for at the full rate. Any registration issued after August 1st of any year shall be charged for at one-half the regular rate. Registrations thereafter shall be renewed annually in the same manner and upon the same payment of the fees as provided herein.

Fees.

SEC. 6. The following fees shall be paid to the secretary of state upon the registration or re-registration for each calendar year for each motor bicycle so registered, the sum of two dollars ($2.00); for each motor vehicle of twenty-five horsepower or less the sum of five dollars ($5.00); for each motor vehicle of forty horsepower or less and more than twenty-five horsepower, the sum of eight dollars ($8.00); for each motor vehicle of fifty horsepower or less and more than forty horsepower the sum of fifteen dollars ($15.00), and for each motor vehicle of more than fifty horsepower, the sum of twenty dollars ($20.00), and for each and every electric propelled motor vehicle so registered the sum of three dollars ($3.00): *Provided,* That for motor vehicles which are used or to be used solely for commercial purposes, the fee for such registration shall be five dollars ($5.00) annually.

Transfers.

SEC. 7. Upon the transfer of ownership of any motor vehicle or motor bicycle registered in accordance with the provisions of

this act, other than a manufacturer or dealer the vendor shall remove the number plate or plates from the vehicle so sold and the registration thereof shall expire, and the person in whose name such vehicle is registered shall return, forthwith, the certificate of registration to the secretary of state, with a written notice, containing the date of said transfer of ownership, and the name, place of residence, and postoffice address of the new owner. A person who transfers to another the ownership of a registered motor vehicle or motor bicycle owned by him, upon the filing of a new application and upon the payment of the proper fee, may have registered in his name another motor vehicle or motor bicycle for the remainder of the calendar year: *Provided*, That the horsepower is the same or less than that of the motor vehicle registered by him, the certificate of which has been surrendered, but if the horsepower of such other motor vehicle is greater than that of the motor vehicle, the certificate of which has been surrendered, the applicant shall pay in addition to said fee, the difference between the fee paid by him for the surrendered certificate and the fee for the registration of the motor vehicle of the higher horsepower: Or if said vendor does not desire to make new application for another motor vehicle or motor bicycle he may have returned to him the unearned registration fee for said calendar year.

Sale by Manufacturer.

SEC. 8. Upon the sale of motor vehicle or motor bicycle by the manufacturer or dealer, which has been registered by the manufacturer or dealer under this act, the vendee shall be allowed to operate the same upon the public highways for a period of fifteen days after taking possession thereof or until he shall have received his certificate of registration and number plates from the secretary of state, providing that during such period the motor vehicle shall have attached thereto, in accordance with the provisions hereof, two number plates bearing the registration number of the dealer under which it might previously have been operated: *And provided, further,* That application for registration shall be made by mail or otherwise before such vehicle shall be so used.

Number Plate Delivered and Displayed.

SEC. 9. The secretary of state shall supply and deliver to the address of the owner of each licensed motor vehicle or motor bicycle registered in his office, as herein provided, charges prepaid, and without additional cost, one number plate for each motor bicycle, which shall be of size one-third of that required for motor vehicles as hereinafter provided, and which shall be conspicuously displayed thereon, and two number plates for each motor vehicle other than a motor bicycle, all such number plates issued during any calendar year shall be of like design and color combination, simple and inexpensive as may be for the purpose required, and the number

thereon shall correspond with the number of the certificate of registration issued by the secretary of state, as hereinbefore provided, and such number plates shall be conspicuously displayed upon the front and back of the motor vehicle to which they are assigned, whenever the same shall be driven or used upon the public streets, roads, turnpikes, parks, parkways, drives or other public highways in the state; and shall be firmly attached to the said motor vehicle and the rear number plate shall not be less than twenty (20) inches above the surface of the ground, and both shall at all times be kept clean and free from grease and dirt. The figures upon such plates shall be separate numerals not less than four inches long, and each stroke not less than five-eighths of an inch in width, and said number plates shall also bear as part of such number the letters "IND." and the year in figures and each of said letters and figures shall be not less than two and one-half inches in height: *Provided,* That in the case of a motor vehicle registered by the manufacturers or dealer there shall be on such plate in addition to the foregoing the letter "M," each stroke of such letter to be at least two and one-half inches long and five-eighths of an inch in width. No vehicle shall display the number plates of more than one state at a time, nor shall any plate be used other than those issued or approved by the secretary of state. Such plates shall be a distinctly different color for each calendar year, and there shall be at all times a marked contrast between the color of the number plates and that of the figures and letters thereon: *Provided, however,* The same combination of colors may be repeated after the lapse of four years from the date of their first issue. The owner of such motor vehicle shall not be required to place any other marks of identity upon such motor bicycle or vehicle, except as provided herein. The secretary of state shall pay the actual cost of such number plates, and certificates furnished for all registered motor bicycles and motor vehicles and all costs and expenses connected with the administration of this act from the fees collected for such registration and he shall make a sworn detailed statement with each annual report as to the amount expended therefor.

Registration by Manufacturers and Dealers.

SEC. 10. Every person, firm, association or corporation manufacturing or dealing in motor vehicles may, instead of registering each motor vehicle so manufactured or dealt in, make a verified application upon a blank to be furnished by the secretary of state for a general distinctive number for all vehicles owned or controlled by such manufacturer or dealer, such application to contain (a) brief description of each style or type of motor vehicle manufactured or dealt in by such manufacturer or dealer; including the character of the motor power, the amount of such motor power stated in figures of horse power in accordance with the rating established by the association of licensed automobile manufacturers; (b) the name, residence, including county and business address, of

such manufacturer or dealer. On the payment of the registration fee of twenty-five dollars such application shall be filed and registered in the office of the secretary of state in the manner provided for in section three of this act. There shall thereupon be assigned and issued to such manufacturer or dealer a general distinctive number and without expense to the applicant issued and promptly delivered to such manufacturer or dealer a certificate of registration in such form as the secretary of state shall prescribe, and a number plate with a number corresponding to the number of such certificate of registration. Such number plate or duplicate thereof shall be displayed by every motor vehicle of such manufacturer or dealer when the same is operated or driven on the public highways. Such manufacturer or dealer may obtain as many duplicates of such number plate as may be desired upon payment to the secretary of state of one dollar for each duplicate.. No plate or sign shall be used other than those furnished by the secretary of state. Nothing in this section shall be construed to apply to a motor vehicle operated by a manufacturer or dealer for private use or for hire. Such registration shall be renewed annually in the same manner and on the payment of the same fee as provided in the section for original registration, such renewal to take effect on the first day of January of each year.

Provisions of section three relative to first registrations made under this act and duration of renewals, shall apply to registration under this section.

Fictitious Number Prohibited.

SEC. 11. No motor vehicle or motor bicycle shall be used or operated upon the public highways of this state after this act shall take effect which shall thereon display a number belonging to any other vehicle or bicycle or fictitious registration number: *Provided, however,* That this section shall not be construed to prohibit any other number being displayed for any lawful purpose upon a motor vehicle or motor bicycle in addition to the number plates issued by the secretary of state as aforesaid.

Definition of and Display of Numbers by Non-Residents.

SEC. 12. The provisions of this act relative to registration and display of registration numbers shall not apply to a motor vehicle or motor bicycle owned by a non-resident of the state other than a foreign corporation doing business in the state: *Provided,* That the owner thereof shall have complied with the provisions of the law of the state of his residence relative to registration of motor vehicles and the display of registration numbers thereon, and shall conspicuously display his registration numbers as required thereby. The provisions of this section, however, shall be operative as to a motor vehicle or motor bicycle owned by a non-resident of this state only to the extent that under the laws of the state of his resi-

dence like exemptions and privileges are granted to motor vehicles and motor bicycles duly registered under the laws of and owned by residents of this state: *and Provided, further,* That a non-resident within the meaning of this act shall be held and defined to mean a person residing in another state, territory or district and temporarily sojourning within this state for a period of sixty days, or less, in any one year.

Signals, Brakes, Horns, etc.

SEC. 13. Every motor vehicle or motor bicycle operated or driven upon any public highway in this state shall be provided with good and adequate brakes in good working order and sufficient to control such vehicle at all times when the same is in use, and also a suitable bell, horn or other signal device, and every motor vehicle shall, during the period from one-half hour after sunset to one-half hour before sunrise, display at least two lighted lamps on the front and one on the rear of such motor vehicle, which shall display a red light visible from the rear. Said rear light to be independent of any other light or lights and so adjusted that in lighting and extinguishing same the motor vehicle must be stationary and the rays of such rear lamp shall shine upon the number plate carried on the rear of such vehicle in such manner as to render the numerals thereon visible for at least one hundred (100) feet in the direction from which the motor vehicle is proceeding, and every motor bicycle shall during said period display one lighted lamp on the front thereof. The light of the front lamp shall be visible at least two hundred (200) feet in the direction in which the motor vehicle is proceeding.

No part of the machinery of any motor vehicle or motor bicycle shall be left running while such motor vehicle or motor bicycle is left standing without an attendant on any public place or highway in this state.

Every person operating or driving a motor vehicle or motor bicycle on the public highways or other public places of the state shall also, when approaching a crossroad, outside the limits of a city or incorporated town or village, slow down the speed of the same, and shall sound the bell, horn or other device for signaling in such a manner as to give notice and warning of his approach.

Stopping on Signal, etc.

SEC. 14. A person operating or driving a motor vehicle or motor bicycle shall, on signal by raising the hand, from a person riding, leading or driving a horse or horses, or other draft animals, bring such motor vehicle or motor bicycle immediately to a stop, and, if traveling in the opposite direction, remain stationary so long as may be reasonable to allow such horse or animal to pass, and if traveling in the same direction, use reasonable caution in thereafter passing such horse or animal: *Provided,* That, in case such horse or animal appears badly frightened or the person operating

such motor vehicle or motor bicycle is so signaled to do, such person shall cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure the safety of others.

In approaching or passing a car of a street railway that has been stopped to allow passenger to light or embark, the operator of every motor vehicle or motor bicycle shall slow down and, if it be necessary for the safety of the public, he shall bring said vehicle to a full stop.

In approaching a pedestrian who is upon the traveled part of any highway, and not upon a sidewalk, and upon approaching an intersecting highway or curve or a corner in a highway where the operator's view is obstructed, every person operating a motor vehicle or motor bicycle shall slow down and give a timely signal with the bell, horn or other device for signaling. Every person operating or driving a motor vehicle or motor bicycle desiring to pass any person riding, leading or driving a horse or horses or any other vehicle, shall when at a distance of one thousand (1,000) feet slow down and when passing said objects shall maintain a speed not greater than fifteen miles per hour.

Rule of the Road.

SEC. 15. Whenever a person operating a motor vehicle or motor bicycle shall meet on a public highway any other person riding or driving a horse or horses or other draft animals or any other vehicle, the person operating such motor vehicle or motor bicycle shall reasonably turn the same to the right of the center of such highway so as to pass without interference. And such person operating a motor vehicle or motor bicycle shall, on overtaking any such horse, draft animal or other vehicle, pass on the left side thereof, and the rider or driver of such horse, draft animal or other vehicle shall, as soon as practical, turn to the right so as to allow free passage on the left. Any such person so operating a motor vehicle or motor bicycle shall, at the intersection of public highways, keep to the right of the intersection of the centers of such highways when turning to the right and pass to the right of such intersection when turning to the left.

Speed.

SEC. 16. No person shall drive or operate a motor vehicle or motor bicycle upon any public highway in the state at a speed greater than is reasonable or prudent, having regard to the traffic and the use of the way or so as to endanger the life or limb or injure the property of any person. If the rate of speed of any motor vehicle or motor bicycle operated upon any public highway or other place in this state where the same passes through the closely built up business portion of any incorporated city, town or village exceeds ten (10) miles an hour or if the rate of speed of any motor

vehicle or motor bicycle operated or driven on any public highway in the state where the same passes through the residence portion of any incorporated city, town or village, exceeds fifteen (15) miles an hour or if the rate of speed of any motor vehicle or motor bicycle operated on any public highway in this state outside the closely built up business portions and the residence portions within any incorporated city, town or village exceeds twenty (20) miles an hour or upon any public highway outside of the limits of an incorporated city or town or village if the rate of speed exceed twenty-five (25) miles per hour, such rates of speed shall be prima facie evidence that the person operating such motor vehicle or motor bicycle is running at a rate of speed greater than is reasonable and prudent having regard to the traffic and use of the way or so as to endanger the life or limb or injure the property of any person. If the rate of speed of a motor vehicle or motor bicycle operated or driven on any public highway or other public place in this state in going around a corner or curve in a highway or other public place where the operator's view of the road traffic is obstructed exceeds six (6) miles an hour, such rate of speed shall be prima facie evidence that the person operating or driving such motor vehicle or motor bicycle is running at a rate of speed greater than is reasonable having regard to the traffic and the use of the way or so as to endanger the life or limb or injure the property of any person: *Provided,* That the local authorities may set aside for a given time a specified public highway for speed contests or races, to be conducted under proper restrictions for the safety of the public.

Local Ordinances Prohibited.

SEC. 17. No owner of a motor vehicle, except motor trucks and motor driven commercial vehicles who shall have obtained a certificate from the secretary of state and paid registration fees as hereinbefore provided, shall be required to pay any tax or license fee whatsoever or to obtain any other license or permit to use or operate the same, nor shall such owner be required to display upon his motor vehicle or motor bicycle any other number than that issued by the secretary of state or excluded or prohibited from or limited in the free use of his said motor vehicle or motor bicycle, nor limited as to speed upon any public highway or other public place at any time when the same is or may hereafter be opened to the use of persons having or using other vehicles, nor be required to comply with other provisions or conditions as to the use of said motor vehicles or motor bicycles except as in this act provided: *Provided, however,* That nothing in this section contained shall be construed to apply to, or include any speedway created authorized or maintained by the local authorities of any city, or town or other municipal corporation within the state: *and Provided, further,* That the local authorities having jurisdiction over the public parks shall not by the terms of this act be prohibited from adopting and enforcing

such reasonable ordinances, rules and regulations concerning the speed at which motor vehicles or motor bicycles may be operated within any such parks: *Provided,* The rate of speed of motor vehicles or motor bicycles fixed by such ordinances, rules or regulations shall not be lower than the rate fixed for other vehicles: *and Provided,* Such authorities shall, by signs conspicuously placed, indicate the rate of speed permitted by such ordinances, rules or regulations: *and Provided further,* That motor vehicles or motor bicycles may be excluded from any cemetery or grounds used for the burial of the dead, by the authorities having jurisdiction over the same.

Except as in this section provided, no city or town or other municipality shall have power to make any ordinance, by-laws or resolution limiting or restricting the use or speed of motor vehicles or motor bicycles, and no ordinance, by-law or resolution heretofore or hereafter made by any city or town or other municipal corporation within the state, by whatever name known or designated, in respect to or limiting the use of motor vehicles or motor bicycles shall have any force, effect or validity, and they are hereby declared to be of no validity or effect: *Provided,* That nothing in this act contained shall be construed as effecting the power of municipal corporations to make and enforce ordinances, rules and regulations affecting motor trucks and motor driven commercial vehicles which are used within their limits for public hire, or from making and enforcing reasonable traffic and other regulations except as to rates of speed not inconsistent with the provisions of this act.

License of Chauffeurs—Renewals.

SEC. 18. Application for a license to operate motor vehicles, as a chauffeur, may be made by mail or otherwise, to the secretary of state or his duly authorized agent, upon blanks prepared under his authority. The secretary of state shall appoint examiners and cause examinations to be held at convenient points throughout the state as often as may be necessary. Such application shall be accompanied by a photograph of the applicant in such numbers and forms as the secretary of state shall prescribe, said photograph to be taken within thirty days prior to the filing of said application and to be accompanied by the fee provided herein. Before such a license is granted the applicant shall pass such examination as to his qualifications as the secretary of state shall require. No chauffeur's license shall be issued to any person under eighteen years of age. A distinguishing mark or number shall be assigned to each chauffeur to whom license shall be issued and the license shall be in such form as the secretary of state may determine; it may contain special restrictions and limitations concerning the type of motor power, horse power, design and other features of the motor vehicles which the licensee may operate; it shall contain the distinguishing number or mark assigned to the licensee, his name, place of residence and ad-

dress, a brief description of the licensee for the purpose of identification and the photograph of the licensee. Such distinctive number of mark shall be of a distinctively different color each year and in any year shall be of the same color as that of the number plates issued for that year. The secretary of state shall furnish to every chauffeur so licensed a suitable metal badge with the distinguishing number or mark assigned to him thereon without extra charge thereof. This badge shall thereafter be worn by such chauffeur affixed to his clothing in a conspicuous place, at all times while he is operating or driving a motor vehicle upon the public highway. Said badge shall be valid only during the term of the license of the chauffeur to whom it is issued as aforesaid. Every person licensed to operate motor vehicles as aforesaid shall indorse his usual signature on the margin of the license, in the space provided for the purpose, immediately upon receipt of said license, and such license shall not be valid until so indorsed.

Every application for license filed under the provision of this section shall be sworn to and shall be accompanied by a fee of two dollars ($2.00). The license hereunder granted on or before July 1, 1913, shall take effect on that date, and licenses issued prior to January 1, 1914, shall expire on that date. The fees for such licenses shall be one-half of the usual fees provided herein. Upon receipt of such application the secretary of state shall file the same in his office and register the applicant in a book or index which shall be kept in the same manner as the book or index for the registration of motor vehicles, and when the applicant shall have passed examination herein provided for the number or mark assigned to such applicant, together with the fact that such applicant has passed such examination shall be noted in said book or index.

No chauffeur having been licensed as herein provided shall voluntarily permit any other person to possess or use his license or badge, nor shall any person while operating or driving a motor vehicle use or possess any license or badge belonging to another person, or a fictitious license or badge.

No person shall operate or drive a motor vehicle as a chauffeur upon a public highway or other public place of this state after the first day of July, 1913, unless such person shall have complied in all respect with the requirements of this section: *Provided, however,* That a non-resident chauffeur, who has registered under the provisions of law of the foreign country, state, territorial or federal district of his residence substantially equivalent to the provisions of this section shall be exempt from license under this section: *and Provided, further.* He shall wear the badge assigned him in the place of his residence in the manner provided in this section.

Such license shall be renewed annually upon the payment of the same fee as provided in this section for the original license, such renewal to take effect on the first day of January of each year.

The secretary of state may refuse to ssue or renew a license if he deems the applicant not qualified to receive such license, but the refusal of the secretary of state may be reversed by any court of competent jurisdiction.

Punishment for Violation—Procedure.

SEC. 19. The violation of any of the provisions of sections 2, 3, 4, 5, 6, 7, 8. 9, 10, and 18 of this act shall constitute a misdemeanor, punishable by fine not exceeding fifty dollars ($50.00). The violation of any of the provisions of section 16 of this act shall constitute a misdemeanor, punishable by a fine not exceeding one hundred dollars ($100.00).

Any person making a false statement in a verified application for registration shall be guilty of a misdemeanor punishable by a fine not exceeding fifty dollars ($50.00).

Any person operating a motor vehicle or motor bicycle while in an intoxicated condition shall be guilty of a misdemeanor punishable by a fine not exceeding fifty dollars ($50.00). Any person operating a motor vehicle causing an injury to a person or property, due to the culpability of said operator, who leaves the place of said injury or accident, without stopping and giving his name, residence, including street and street number, and operator's license number to the injured party, or to a police officer, or in case no police officer is in the vicinity of the place of said injury or accident, then reporting the same to the nearest police station, or judicial officer, shall be guilty of a felony punishable by a fine of nor more than five hundred dollars or by imprisonment for a term of not exceeding two years in the state prison, or by both such fine and imprisonment, and if such person be convicted a second time of the foregoing offense, he shall be guilty of a felony punishable by imprisonment for a term of not less than one year and not more than five years. A conviction of a violation of this paragraph shall be reported forthwith by the trial court or the clerk thereof to the secretary of state, who shall upon recommendation of the trial court suspend the license of the person so convicted, or if he be an owner, the certificate of registration of his motor vehicle or motor bicycle, and, if no appeal therefrom be taken, or if an appeal taken be dismissed, or the judgment affirmed, and upon notice thereof by said clerk, the secretary of state shall revoke such license or in case of an owner the certificate of registration of his motor vehicle or motor bicycle, and shall order the license or certificate of registration delivered to the secretary of state, and shall not reissue to him said license or certificate of registration or any other license or certificate of registration unless the secretary of state in his discretion, after an investigation or upon a hearing, decides to reissue or issue such license or certificate. Any person violating any of the provisions of any section of this act for which no punishment has been specified shall be guilty of a misdemeanor punishable by a fine of not exceeding twenty-five dollars: *Provided,* That any offender who shall have been found guilty of a violation of any section of this act and fined therefor, not otherwise provided for herein, who shall thereafter be convicted of a second violation of such section, may be fined in a sum not exceeding double the penalty herein provided for first offense, and in addition thereto may have his certificate or license

issued by the secretary of state revoked for a period not exceeding three months, or imprisonment in the county jail for a period of thirty (30) days, and for a third or subsequent violation of the same section of this act the certificate or license may, in addition to the fine provided for the second offense, be revoked for a period not exceeding six months, or imprisonment in the county jail for a period of sixty (60) days. Any person whose license shall have been revoked for a violation of any of the provisions of this act and who shall drive or operate a motor vehicle or motor bicycle within the State of Indiana, during the period for which his said license shall have been revoked, or any person who, having once been convicted of a failure to comply with the provisions of the act requiring registration of motor vehicles or motor bicycles, or the examination and licensing of chauffeurs shall fail or refuse to comply with said provisions, shall be deemed guilty of a misdemeanor and on conviction may be fined in any sum not to exceed two hundred dollars, or imprisoned in the county jail for a period not exceeding thirty (30) days or both in the discretion of the court.

Disposition of Registration Fees, Fines and Penalties.

SEC. 20. All moneys received by the secretary of state, as registration fees and for the examining and licensing of chauffeurs, as provided in this act, shall be deposited in the state treasury.

On the first day of each month or within ten days thereafter all fines, penalties or forfeitures collected for violations of any of the provisions of this act, or any act in relation to the use of the public highways by motor vehicles or motor bicycles now in force or hereinafter enacted under the sentence or judgment of any court, justice of the peace or other judicial officer having jurisdiction in the premises, shall be paid over by such judicial officer or the clerk of any court having the custody of such funds to the treasurer of state, with a statement accompanying the same, setting forth the action or proceedings in which said moneys were collected, the name and residence of the defendant, the nature of the offense and the fine, penalty, sentence or judgment imposed.

All moneys derived under the provisions of this act shall be set apart in the state treasury as a road fund, which fund, less the cost of procuring and delivering registration certificates, number plates, and other expenses, including an amount sufficient to pay the cost of necessary assistants in the office of the secretary of state, to be determined by the secretary of state, with the approval of the governor, shall be paid semi-annually on January 1st and July 1st on warrants of the auditor of state to the counties of the state as herein provided.

The fund shall be distributed as follows:

One-third shall be divided equally among the counties of the state.

One-third shall be divided among the counties in the proportion which the number of miles of free gravel or macadam roads in the county bears to the whole number of such roads in the state.

One-third shall be divided among the counties on the basis of the amount received from the counties from such registration tax.

In case the amount received by any county shall exceed one hundred dollars ($100.00) per mile for each mile of free gravel or macadam roads the excess shall be paid into the road funds of the various townships in proportion to the number of miles of township roads which shall be expended in the maintenance of township roads.

Repeal.

SEC. 21. All laws and parts of laws in conflict with this act are hereby expressly repealed.

Act Effective.

SEC. 22. This act shall take effect and be in force from and after July 1st, 1913.

CHAPTER 288.

AN ACT to give a person, firm or corporation or others engaged in storing or furnishing supplies for or repairing automobiles or motor trucks, or person, firm or corporation maintaining an automobile garage, a lien upon automobiles or motor trucks stored or kept, or for which supplies are furnished or upon which repairs are made, providing the means of foreclosing said lien, and declaring an emergency.

[H. 290. Approved March 15, 1913. Acts 1913, p. 764.]

Liveries and Garages—Lien—Services or Supplies.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That every person, firm or corporation, or others engaged in storing, or furnishing supplies for or repairing an automobile or motor truck, or every person, firm or corporation or others maintaining automobile garages, shall have a lien upon any such automobile or motor truck stored, for storage charges or charges for keeping any such automobile or motor truck, or for furnishing supplies for or repairs done on such automobile or motor truck.

Foreclosure.

SEC. 2. Said lien may be foreclosed as equitable liens are now foreclosed in the circuit court of the county where said automobile

or motor truck is located by the filing of a complaint at any time within one year from the failure or refusal of the owner of said automobile or motor truck to pay the storage charges or the charges for repairs done on or supplies furnished for any such automobile or motor truck as specified in section one of this act.

Supplemental Act.

SEC. 3. This act shall not be construed as repealing any other law now in force concerning liens or the foreclosure of same, but this act is intended to be supplemental to all law now in force concerning liens and the foreclosure of same.

Emergency.

SEC. 4. Whereas, an emergency exists for the immediate taking effect of this act, the same shall be in force and effect from and after its passage.

CHAPTER 113.

AN ACT supplemental to an act entitled "An act concerning the organization and perpetuity of voluntary associations, repealing all laws in conflict therewith, legalizing the organization of certain associations organized under former laws, and declaring an emergency," approved March 9, 1901, authorizing the organization, incorporation and perpetuity of voluntary associations for certain purposes not named in said act, approved March 9, 1901, and declaring an emergency.

[H. 439. Approved March 6, 1909. Acts 1909, p. 290.]

Corporations—Motor Speedway—Theaters, etc.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That any number of persons, not less than three (3), may voluntarily associate themselves into a corporation in the manner set forth in an act entitled "An act concerning the organization and perpetuity of voluntary associations, repealing all laws in conflict therewith, legalizing the organization of certain associations organized under former laws, and declaring an emergency," approved March 9, 1901, with all the rights, powers and privileges expressed and granted by said act to associations organized thereunder, and subject to all the provisions of said act, for the following named purposes:

(a) To acquire, by purchase, lease or otherwise, hold, own, maintain, ornament and improve places, parks and ways for shows and exhibits and speed and other tests of motor cars, balloons or airships, to hold and conduct, or to license or permit others to hold and conduct therein or thereon such shows, exhibits, tests, to secure

the co-operation and participation in such shows or exhibits and speed or other tests of motor cars, balloons and airships of manufacturers and owners of and dealers in all or any thereof and of persons skilled in the arts and sciences applicable thereto, to promote the development, use and sale of all or any thereof and to transact all business incidental to all or any of said purposes.

(b) To acquire by purchase, lease or otherwise, hold, own, maintain and operate opera houses, theaters, grounds and other places for the presentation of theatrical plays, operas, concerts, or other amusements or entertainments, and to produce and present, and to license or permit others to produce and present therein or thereon theatrical plays, operas, concerts and other forms of amusement or entertainment.

(c) To design, to register and protect trade-marks, and to do all things needful or connected therewith.

(d) To govern, manage, control, and improve parks, boulevards and pleasure drives, and to lay out the same, and to take and hold by gift for such purpose of personal property; and to take and hold by purchase, gift, grant, dedication or devise, real property for said purposes, located within four miles of any city of the first, second, or third class, where such company may have its home office; but shall take and hold said property and exercise said powers in trust for the city in connection with which said parks, boulevards or pleasure drives shall be laid out and maintained: *Provided,* That when any company is organized to exercise the powers and for the purposes named in this subdivision, it shall be without capital stock and not for pecuniary gain: *Provided,* Nothing herein shall authorize the production or presentation of any amusement or other entertainment now or hereafter prohibited by law.

The objects or purposes of any such association may include any or all of the purposes stated in any one of the above subdivisions of this section.

Emergency.

SEC. 2. An emergency is hereby declared to exist for the immediate taking effect of this act, therefore the same shall be in force and effect from and after its passage.

STOCK FOODS.

AN ACT to provide for the inspection and analysis of, and to regulate the sale of concentrated commercial feeding stuff in the State of Indiana; to prohibit the sale of fraudulent or adulterated concentrated commercial feeding stuffs; to define the term concentrated commercial feeding stuffs; to provide for guarantees of the ingredients of concentrated commercial feeding stuffs; for the affixing of labels and stamps to the packages thereof, as evidence of the guarantee and inspection thereof; to provide for the collection of an inspection fee from the manufacturers of, or dealers in concentrated commercial feeding stuffs; to fix penalties for the violation of the provisions of this act, and to authorize the expenditure of the funds derived from the inspection fees.

[S. 539. Acts 1907, p. 354. Approved March 9, 1907.]

Stock Foods—Statement to State Chemist.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That before any concentrated commercial feeding stuff is sold, offered or exposed for sale in Indiana, the manufacturer, importer, dealer, agent or person who causes it to be sold, or offered for sale, by sample, or otherwise, within this state, shall file with the state chemist of Indiana at the Indiana agricultural experiment station, Purdue university, a statement that he desires to offer such concentrated commercial feeding stuff for sale in this state, and also a certificate, the execution of which shall be sworn to before a notary public, or other proper official, for registration, stating the name of the manufacturer, the location of the principal office of the manufacturer, the name, brand or trade-mark under which the concentrated commercial feeding stuff will be sold, the ingredients from which the concentrated commercial feeding stuff is compounded, and the minimum percentage of crude fat and crude protein allowing one per cent. of nitrogen to equal six and twenty-five hundredths per cent. of protein, and the maximum percentage of crude fibre which the manufacturer, or person offering the concentrated commercial feeding stuff for sale guarantees it to contain; these constituents to be determined by the methods recommended by the association of official agricultural chemists of the United States.

SEC. 2. Any person, company, corporation or agent that shall sell or offer, or expose for sale, any concentrated commercial feeding stuff in this state, shall affix, or cause to be affixed, to every package or sample of such concentrated commercial feeding stuff in a conspicuous place on the outside thereof, a tag or label which shall be accepted as a guarantee of the manufacturer, importer, dealer or agent, and which shall have plainly printed thereon in the English language the number of net pounds of concentrated com-

mercial feeding stuff in the package, the name, brand or trade mark under which the concentrated commercial feeding stuff is sold, the name of the manufacturer, and the guaranteed analysis stating the minimum percentage of crude fat and crude protein, determined as described in section one (1), and the ingredients from which the concentrated commercial feeding stuff is compounded. For each one hundred pounds, or fraction thereof, the person, company, corporation or agent, shall also affix the stamp purchased from the state chemist, showing that the concentrated commercial feeding stuff has been registered as required by section one (1) of this act, and that the inspection tax has been paid. When concentrated commercial feeding stuff is sold in bulk a tag, as hereinbefore described, and a state chemist stamp shall be delivered to the consumer with each one hundred pounds, or fraction thereof: *Provided,* That state chemist's stamps shall be issued to cover twenty-five (25), fifty (50) and one hundred (100) pounds. (As amended. Acts 1909, p. 106.)

State Chemist—Fees for Registering, Etc.

SEC. 3. The state chemist shall register the facts set forth in the certificate required by section one of this act in a permanent record, and shall furnish stamps or labels showing the registration of such certificate to manufacturers or agents desiring to sell the concentrated commercial feeding stuff so registered at such times and in such numbers as the manufacturers or agents may desire: *Provided,* That the state chemist shall not be required to sell stamps or labels in less amount than to the value of five dollars ($5.00) or multiples of five dollars for any one concentrated commercial feeding stuff: *Provided, further,* That the state chemist shall not be required to register any certificate unless accompanied by an order and fees for stamps or labels to the value of five dollars ($5.00) or some multiple of five dollars: *Provided, further,* That such stamps or labels shall be printed in such form as the state chemist may prescribe: *Provided, further,* That such stamps or labels shall be good until used.

Sworn Annual Statement.

SEC. 4. On or before January 31st of each year, each and every manufacturer, importer, dealer, agent or person, who causes any concentrated commercial feeding stuff to be sold or offered or exposed for sale in the State of Indiana shall file with the state chemist of Indiana a sworn statement, giving the number of net pounds of each brand of concentrated commercial feeding stuff he has sold or caused to be offered for sale in the state for the previous year ending with December 31st: *Provided,* That when the manufacturer, jobber or importer of any concentrated commercial feeding stuff shall have filed the statement aforesaid, any person acting as agent for said manufacturer, importer or jobber, shall not be required to file such statement.

Fees—Accounting and Use.

SEC. 5. For the expenses incurred in registering, inspecting and analyzing concentrated commercial feeding stuffs, the state chemist shall receive for stamps or labels furnished to cover one hundred (100) pounds, eighty (80) cents per hundred; to cover fifty (50) pounds, forty (40) cents per hundred and to cover twenty-five (25) pounds, twenty (20) cents per hundred. The money for said stamps or labels shall be forwarded to the said state chemist, who shall pay all such fees received by him to the director of the Indiana agricultural experiment station, Purdue university, by whom they shall be paid into the treasury of said Indiana agricultural experiment station, the board of control of which shall expend the same, on proper vouchers to be filed with the auditor of state in meeting all necessary expenses in carrying out the provisions of this act, including the employment of inspectors, chemists, expenses in procuring samples, printing bulletins, giving the results of the work of feeding stuff inspection as provided for by this act, and for any other expenses of said Indiana agricultural experiment station, as authorized by law. The director of said experiment station shall make to the governor on or before February 15th of each year, a classified report, showing the total receipts and expenditures of all fees received under the provisions of this act. (As amended. Acts 1909, p. 106.)

Unlawful Sale—Penalties.

SEC. 6. Any person, company, corporation or agent that shall offer for sale, sell or expose for sale any package or sample or any quantity of any concentrated commercial feeding stuff which has not been registered with the state chemist as required by section 1 of this act, or which does not have affixed to it the tag and stamp required by section 2 of this act, or which is found by an analysis made by or under the direction of the state chemist to contain a smaller percentage of crude fat or crude protein than the minimum guarantee, or which shall be labeled with a false or inaccurate guarantee, or who shall adulterate any concentrated commercial feeding stuff with foreign mineral matter or other foreign substance, such as rice hulls, chaff, mill sweepings, peanut shells, corn bran, corncob meal, oat hulls, oat clippings, or other materials of less or of little or no feeding value without plainly stating on the label hereinbefore described, the kind and amount of such mixture, or who shall adulterate with any substance injurious to the health of domestic animals, or who shall alter the stamp, tag or label of the state chemist, or shall use the name and title of the state chemist on a stamp, tag or label not furnished by the state chemist, or shall use the stamp, tag or label of the state chemist the second time, or shall refuse or fail to make the sworn statement required by section 4 of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in the sum of fifty dollars for the first offense, and in the sum of one

hundred dollars for each subsequent offense. In all litigation arising from the purchase or sale of any concentrated commercial feeding stuff in which the composition of the same may be involved a certified copy of the official analysis signed by the state chemist shall be accepted as prima facie evidence of the composition of such concentrated commercial feeding stuff: *Provided,* That nothing in this act shall be construed to restrict or prohibit the sale of concentrated commercial feeding stuff in bulk to each other by importers, manufacturers or manipulators who mix concentrated commercial feeding stuff for sale, or as preventing the free, unrestricted shipment of these articles in bulk to manufacturers or manipulators who mix concentrated commercial feeding stuff for sale, or to prevent the state chemist, or the Indiana agricultural experiment station, or any person or persons deputized by said state chemist, making experiments with concentrated commercial feeding stuffs for the advancement of the science of agriculture.

Power to Procure Samples.

SEC. 7. The state chemist or any person by him deputized is hereby empowered to procure from any lot, parcel or package of any concentrated commercial feeding stuff offered for sale or found in Indiana a quantity of concentrated commercial feeding stuff not to exceed two pounds: *Provided,* That such sample shall be drawn during reasonable business hours, or in the presence of the owner of the concentrated commercial feeding stuff or of some person claiming to represent the owner.

Obstruction Inspection—Penalty.

SEC. 8. Any person who shall prevent or strive to prevent the state chemist, or any person deputized by the state chemist, from inspecting and obtaining samples of concentrated commercial feeding stuff, as provided for in this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in the sum of fifty dollars for the first offense, and in the sum of one hundred dollars for each subsequent offense.

Rules, Regulations and Standards.

SEC. 9. The state chemist is hereby empowered to prescribe and enforce such rules and regulations relating to concentrated commercial feeding stuff as he may deem necessary to carry into effect the full intent and meaning of this act, and to refuse the registration of any feeding stuff under a name which would be misleading as to the materials of which it is made, or when the percentage of crude fiber is above or the percentage of crude fat or crude protein below the standards adopted for concentrated commercial feeding stuffs. The state chemist is further empowered

to refuse to issue stamps or labels to any manufacturer, importer, dealer, agent or person who shall sell or offer or expose for sale any concentrated commercial feeding stuff in this state and refuse to submit the sworn statement required by section 4 of this act.

Prosecuting Attorney—Duties.

SEC. 10. It shall be the duty of every prosecuting attorney to whom the state chemist shall report any violation of this act to cause proceedings to be commenced against the person or persons so violating the act, and the same prosecuted in the manner required by law.

Feeding Stuffs Defined.

SEC. 11. The term "concentrated commercial feeding stuff" as used in this act, shall include linseed meals, cocoanut meals, gluten feeds, gluten meals, germ feeds, corn feeds, maize feeds, dairy feeds, starch feeds, sugar feeds, dried brewers' grains, malt sprouts, dried distillers' grains, dried beet refuse, hominy feeds, cerealine feeds, rice meals, rice bran, rice polish, peanut meals, oat feeds, corn and oat feeds, corn bran, wheat bran, wheat middlings, wheat shorts and other mill by-products not excluded in this section, ground beef or fish scraps, dried blood, blood meals, bone meal, tankage, meat meals, slaughter house waste products, mixed feeds, clover meals, alfalfa meals and feeds, peavine meal, cotton seed meal, velvet bean meal, sucrine, mixed feeds, and mixed meals made from seeds or grains, and all materials of similar nature used for food for domestic animals, condimental feeds, poultry feeds, stock feeds, patented proprietary or trade and market stock and poultry feeds; but it shall not include straw, whole seeds, unmixed meals made directly from the entire grains of wheat, rye, barley, oats, Indian corn, buckwheat and broom corn, nor wheat flours or other flours.

SEC. 12. All laws and parts of laws in conflict with this act are hereby repealed.

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HIGHWAYS.

SALE OF GRAVEL OR OTHER ROAD MATERIAL BY TOWNSHIP TRUSTEE.

CHAPTER 39.

AN ACT to amend section one (1) of an act entitled "An act defining the duties of township trustees in the sale of township property, and declaring an emergency" approved March 8, 1897.

[H. 304. Approved March 3, 1915.]

Township Trustees—Sale of Gravel.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section one (1) of the above entitled act be amended to read as follows: Section 1. That no township trustee shall sell any real or personal property of such township except at public auction after notice for thirty (30) days prior to the day of sale, by posting notices thereof at six (6) public places in said township of the time, terms and place of said sale, giving a description of the property to be sold: *Provided,* That any gravel or other road material belonging to such township may be sold by the trustee of such township with the approval of the advisory board without giving notice and without offering such gravel or other road material for sale at public auction. All money derived from the sale of such gravel or other road material shall be carried into the township treasury and shall constitute a part of the township road fund and shall be disbursed as the other moneys belonging to such fund are disbursed.

ELECTION OF SUPERVISORS.

CHAPTER 47.

AN ACT to amend section one (1) of an act entitled "An act concerning the maintenance and repair of township highways." Approved March 15, 1913.

[H. 32. Approved March 3, 1915.]

Highways—District Supervisors Elected.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section one (1) of the above entitled act be amended to read as follows: Section 1. The qualified voters in each road district of the several townships of the several counties in the state shall, on the second Saturday after the first Monday in December, 1916, and every two (2) years thereafter, elect a supervisor who shall hold his office for the term of two (2) years and until his successor is elected and qualified. Road districts shall not be held to include any part or parts of cities or incorporated towns that may be in the township in which such road districts are located. The township trustee of each township shall on or before the first Monday in December, 1916, and every two (2) years thereafter, post up or cause to be posted, in at least two (2) public places in each road district of his township, written or printed notices of an election of supervisor of such road district, giving therein the place, day and hour at which such election is to be held. The day and hour of such election shall be the same in each road district of the township. The place of such election shall, if practicable, be a schoolhouse, located in the road district. The township trustee shall act as inspector of the election in the road district in or nearest to which he resides, and shall name from among the qualified voters present two clerks, who shall, if possible, not both be of the same political party. Such clerks, with the trustee, shall form an election board to judge of the qualifications of voters, and shall collect or receive and shall count the ballots cast. If one or more members of the election board, or one or more freeholders among the qualified voters present shall challenge any one offering to vote, and declare under oath that such an one is not entitled to vote, giving reasons

for such declaration, then, after the one offering to vote and challenged as aforesaid shall have been given an opportunity to reply and to declare under oath his qualifications, if such one or more members of such election board or such one or more freeholders among the qualified voters present persist in their challenge and declarations, the one thus challenged shall not be allowed to vote unless a freeholder among the qualified voters present shall declare under oath that such challenged voter is entitled to vote in that road district at that election. For the election of supervisor in each road district of his township, other than the one in or nearest to which he resides, the trustee shall name an inspector of election, and such inspector shall name two clerks, of different political parties, if possible, from among the qualified voters present. Such inspector shall be a freeholder in the road district in which the election is held. The inspector and the two clerks shall constitute an election board to judge, as heretofore provided, of the qualifications of voters, and to receive or collect and to count the ballots cast. Such inspector or trustee shall be authorized to administer all necessary oaths in relation to such election. The inspector and clerks provided for in this act shall serve without pay, but the township trustee shall be entitled to his regular pay for one day for the day on which the notices aforesaid are posted up and for one day for the day on which he files reports of election of supervisors with the auditor of the county. The trustee shall provide paper for ballots and for the clerks in their count of such ballots. The trustee or inspector shall be present promptly at the place and hour named in the notice of election, and if the said trustee or inspector shall not appear within fifteen minutes after the time set, then the qualified voters present shall select a freeholder from their number as inspector. The polls shall be opened in the afternoon at the hour of two (2) o'clock, and shall continue open until five (5) o'clock in the afternoon, if all voters present have voted, or have been given an opportunity to vote, provided that the election board may close the polls sooner if all voters present have voted or have been given an opportunity to vote, and no vote has been cast for ten (10) minutes. Immediately upon the announcement that the polls are closed, the election board shall proceed to

count the ballots, and during the count all voters shall be excluded from the room in which the count is made excepting only the election board and two watchers, who may be named, one by each of the clerks. The person receiving the highest number of votes cast shall be deemed to be elected. Only those ballots shall be counted which contain the name of but one (1) person, and mistakes in spelling or in initials shall not prevent the ballot from being counted where the intent of the voter is evident; all counted or uncounted ballots shall be preserved under seal by the trustee until June following the day of election. Ballots may be either written or printed. When the count is completed the trustee or inspector shall at once announce the result and the trustee shall issue a certificate to the person so elected. The inspector of each district other than that of which the township trustee is inspector shall file with such trustee the report of election in his district, together with all papers and ballots. The trustee shall within three (3) days file with the auditor of such county a report of all elections of supervisors held in such trustee's township, which report shall be certified to, in the case of each road district, by the members of the election board in such district. Each supervisor shall at the time of his election or appointment be a qualified voter of the road district for which he is elected or appointed. In all townships in this state in which the township roads do not exceed ten (10) miles in length, the township trustee shall be ex-officio road supervisor, and in no case shall there be to exceed four (4) supervisors in any one township in this state. Such supervisor shall take an oath, before entering upon the discharge of his duties, for the faithful performance thereof, and give a bond with surety to be approved by the township trustee, and conditioned for the faithful discharge of his duties, in the sum of not less than two hundred ($200.00) dollars, which bond shall be deposited with the township trustee: *Provided,* That if any person elected supervisor shall be unable to give such bond, such inability shall be a defense to the collection of the forfeiture herein provided for, and the township trustee shall appoint some one else as supervisor who shall serve until his successor is elected and qualified. Each road supervisor shall receive for his services actually performed the sum of twenty-five cents (25c) per hour,

for not to exceed fifty (50) days except that in the event of the election of but one (1) supervisor for his township, the township trustee may extend the time said supervisor shall work to not more than 120 days in any one year to be paid out of the township treasury. Before receiving such pay he shall file a sworn statement with the trustee of the township, which statement shall specify the days and roads upon which such services were performed. Upon failure or neglect to carry out or perform such duties as are imposed upon him, any supervisor shall be liable upon the bond hereinbefore provided for, or he may be removed from office by the township trustee. The township trustee shall fill all vacancies for the unexpired term, and shall notify such appointee of his appointment within three (3) days thereof. Such supervisors shall have charge of and work and keep in good repair the roads of their respective districts. They shall be subject to the control and direction of the township trustee, who shall see that their duties be faithfully performed, and who shall see that the roads of the townships are dragged whenever the weather conditions make such work advisable. He shall also call out all persons in such district liable to work on highways therein, superintend the labor thereon, see that the same is faithfully performed and report to the trustee all fines and commutation moneys due such district and the same shall be collected by such trustee, and whenever such trustee shall deem it necessary he may make any change in the road districts that may subserve the public interest. On dividing his township into road districts, or where any change is made therein, such trustee shall record a plat thereof in the highway record of his township, which shall show the roads and parts of roads belonging to each road district.

CUTTING WEEDS.

CHAPTER 168.

AN ACT concerning the cutting down and destroying of briers, thistles, burrs, docks, willows, sumac, and other noxious weeds by owners of lands along public highways.

[S. 254. Approved March 10, 1915.]

Weeds—Time for Cutting.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That all landowners through or along whose lands public highways are laid out and extended, between the fifteenth day of June and the first day of September in each year, shall cut down or cause to be cut down and destroy or cause to be destroyed, for the length and distance the said highway shall extend along or through such lands, all briers, thistles, burrs, docks, willows, sumac, reeds, cattails, tall grass, shrubs and all other growths which in any manner either partly or wholly obstruct the view of any such highways along, through or contiguous to such lands.

Credit on Road Taxes.

SEC. 2. Any such landowner who shall comply with the provisions of this section one (1) of this act, shall be allowed for such work or service the sum of one dollar and fifty cents ($1.50) per day, eight hours to constitute a day, and at a proportionate rate for each fraction of a day for each day necessarily employed thereat; the work to be done under the direction of the supervisor in charge of said road district, and to be credited upon his road taxes as other work is credited.

Failure to Comply—Assessed on Road Tax.

SEC. 3. If any such landowner shall refuse or neglect to comply with the provisions of this act, the said road supervisor, upon his own motion, or upon complaint made by any interested person, shall institute an investigation of such condition or complaint; and if it appears that the provisions of this act have not been complied with, it shall be the duty of said supervisor to cut down or cause to be cut down and destroy or cause to be destroyed forthwith

the briers, thistles, burrs, docks, willows, sumac, reeds, cat-tails, tall grass, shrubs and all other growths, which in any manner either partly or wholly obstruct the view of any highway along, through or contiguous to such lands, and the expenses of the work, at the rate of one dollar and fifty cents ($1.50) per day, including all costs of the investigation shall be assessed against and become a lien upon such land as road taxes. The tax so assessed shall be known and designated as a special weed tax. The road supervisor in charge of the work shall prepare an itemized statement of the total cost of the work, including the cost of the labor and of the investigation, and he shall sign the statement and certify it to the county auditor of the county in which such lands are located. The county auditor shall place the same on the tax duplicate, and it shall be the duty of the county treasurer and he is hereby required to collect all such special weed taxes at the same time and in the same manner as road taxes are collected, and he shall have no authority to issue a receipt for road taxes unless the special weed tax be paid in full at the same time. Special weed taxes which shall not be paid when due shall become delinquent and shall bear the same interest and be subject to the same penalties and shall be collected at the same time and in the same manner as other unpaid and delinquent taxes. If the work of cutting and destroying such briers, thistles, burrs, docks, willows, sumac, reeds, cat-tails, tall grass, shrubs and all other growths which in any manner either partly or wholly obstruct the view of any highway, shall be performed on any free gravel or macadam highway in this state, the work shall be done under the supervision of the county highway superintendent and the landowner performing such work shall be allowed for such service the same pay as provided in section two (2) to be paid out of the gravel road fund and a special weed tax for the payment of the same shall be collected and paid in the same manner as hereinbefore provided for special weed taxes in this section.

Penalty.

SEC. 4. Any person who violates the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than five dollars ($5.00) nor

more than ten dollars ($10.00) for each separate and distinct offense.

Repeal.

SEC. 5. An act entitled "An act concerning the cutting down and destroying of burrs, thistles, briers, docks and other noxious weeds by owners of lands along public highways," approved March 3, 1907, is hereby repealed.

FENCE—PARTITION.

CHAPTER 173.

AN ACT to amend section three of an act entitled, "An act declaring what are partition fences and providing for the building, repairing and maintaining such fences and conferring jurisdiction on the township trustee in the matter of partition fences in cases therein specified and providing for lien for the building, maintaining and repairing of partition fences and providing remedies for the collection of the expenses thereof rendered under this act and repealing all laws in conflict therewith, and declaring an emergency, approved March 6, 1911, being Section 7379, Burns' Revised Statutes of Indiana, of 1914.

[S. 347. Approved March 10, 1915.]

Fences—Cost Apportioned—Township Trustee Building—Streams.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section 3 of an act entitled, "An act declaring what are partition fences and providing for the building, repairing and maintaining such fences and conferring jurisdiction on the township trustee in the matter of partition fences in cases therein specified and providing for lien for the building, maintaining and repairing of partition fences and providing remedies for the collection of the expenses thereof rendered under this act and repealing all laws in conflict therewith, and declaring an emergency," approved March 6, 1911, being section 7379, Burns' Revised Statutes of Indiana, 1914, be amended to read as follows: Section 3. That all partition fences shall be built, rebuilt, kept in repair at the cost of the several landowners whose lands are enclosed or separated by such fences equally according to the number of rods or propor-

tion thereof such landowner may have along such line of fence whether his, her or their title be in fee simple, or a life estate. That if any landowner as above defined, shall fail or refuse to compensate for building, rebuilding or repairing his, her or their proportion of fence, any landowner interested in such fence after having built, rebuilt or repaired his proportion of such fence, shall give to the defaulting landowner, his agent, or tenant twenty days' notice to build, rebuild or repair his proportion of such fence as the case may be, and if such defaulting party shall fail to build, rebuild or repair such fence within said time, such landowner shall then notify the township trustee of the township wherein said lands are located of such fact: *Provided,* That where the fence sought to be established, rebuilt or repaired, is on a township line, in such case the owner or owners shall notify the trustee of the adjoining township to the one in which the defaulting party lives of the improvement he or they may desire made, and such trustee shall have jurisdiction of such matter, unless disqualifieed as hereinafter provided, estimate the costs for such fence, building, rebuilding or repairing the same, as the case may be, and within a reasonable time after being notified such trustee shall make out a statement and notify such defaulting party of the probable cost of building, rebuilding or repairing such fence, as the case may be, and if after twenty days, said fence is not built, rebuilt or repaired by such defaulting landowners, such trustee of such township shall build, rebuild or repair such fence as the case may be: *Provided,* That such trustee shall use only the materials for such fences as is most commonly used by the farmers of such community: *Provided, further,* That if such trustee of such township is disqualified to act, then it shall be lawful and it shall be the duty of the trustee of the adjoining township, residing nearest to where such fence is situated to act in the premises upon receiving a notice so to do by any landowner interested therein: *Also, Provided further,* That a lawful partition fence shall be a straight board and wire fence or a straight wire or a straight board fence or a picket fence four feet high, a straight rail fence four and one-half feet high, a worm rail fence five feet high and all fences of every structure to be sufficiently tight and strong to hold hogs, sheep, cattle,

mules and horses: *Provided further,* That if a ditch or creek crosses the division land [line] between two landowners, necessitating additional expense in the maintenance of the part over such stream, if such landowners cannot agree upon the proportionate share of each, the township trustee shall appoint three disinterested citizens who shall apportion the partition fence to be built by each landowner: *Provided, further,* That any trustee related to any of the parties interested or if an interested party himself, then it shall be lawful for the trustee of any other township residing nearest to where such fence is situated to act in the premises. *Provided, further,* That in all cases where a ditch, creek, forms, covers, or marks the dividing line or any part thereof of the lands of separate and different landowners of this state so that partition fences such as are required and provided for in this act cannot be built and maintained on such dividing line, then and in all such cases such partition fences shall be built and maintained under the provisions of this act as near to such boundary line as may be, and each landowner shall be required on his own land to build a separate partition fence, and to maintain the same at his own cost. *Provided further,* That in all cases where partition fences such as are required and provided for in this act, cross any ditch or creek and by reason thereof it is impracticable to construct or maintain that portion of said fence as would cross said ditch or creek, as a stationary fence, then and in all such cases there shall be erected in lieu of such portion of said fence across said ditch or creek, and as a part of such partition fence, flood-gates or other similar structures, sufficiently high, tight, and strong to turn hogs, sheep, cattle, mules and horses or other domestic animals, and so constructed as to swing up in times of high water. And such flood-gates or other similar structures shall be so built and constructed as to connect continuously such partition fences. *And Provided further,* That if the building and maintenance of such flood-gate or other similar structure occasions additional expenses, and such land owners cannot agree upon the character of flood-gate or other similar structure, or upon the proportionate share of the cost thereof to be borne by each, the township trustee upon notice in writing from either landowner of such disagreement and the nature

thereof, shall appoint three disinterested citizens, of said township, who shall determine the kind of structure and apportion the cost of such flood gate or other structure between such landowners, taking into consideration the parts and portion of such fence being maintained by each landowner. And the determination of a majority of such arbitrators of any matter or matters submitted to them shall be final and binding on each landowner. The compensation of such arbitrators shall be two dollars each, which shall be paid by said landowners in the proportion they are ordered to bear the expense of such gate or structure. In case either or both of such land-owners shall fail to construct or compensate for constructing the structure determined upon by such arbitrators in the proportion determined, within thirty days from such determination, such township trustee shall proceed at once to construct such gate or structure and collect the cost thereof, including the compensation of such arbitrators, from such defaulting landowner or landowners in the same manner as is provided for ordinary partition fences. And such floodgate or other structure shall be repaired, rebuilt or replaced in accordance with the determination of said arbitrators.

AMENDING THREE-MILE GRAVEL ROAD LAW LIMITING BOND ISSUE.

CHAPTER 176.

AN ACT to amend section one (1) of an act entitled, "An act to amend section one (1) of an act entitled an act to amend section two (2) of an act entitled 'An act to amend sections seventy (70) and seventy-five (75) of an act entitled, an act concerning highways; approved February 25, 1907; and section seventy-two (72) of an act entitled 'An act concerning highways; approved March 6, 1905; approved March 8, 1909: approved March 11, 1913; and to amend section one (1) of an act entitled, an act limiting, the issuance of bonds, or other evidences of indebtedness payable by taxation, for the construction of free gravel or macadamized roads,' approved March 14, 1913; and also to amend section two (2) and one (1) of an act entitled, 'An act to amend section one (1) of an act entitled 'An act to amend section sixty-three (63) of an act entitled 'An act concerning highways,' approved Mch. 8, 1905;' approved March 2, 1907; and to amend section one (1) of an

act entitled 'An act to amend section one (1) of an act entitled, 'An act to amend sections seventy (70) and seventy-five (75) of an act entitled, 'An act concerning highways,' approved February 25, 1907; and section seventy-two (72) of an act entitled, An act concerning highways; approved March 6, 1905;' approved March 8, 1909; 'and to amend section seventy-six (76) of an act entitled, 'An act concerning highways; approved March 8, 1905; and declaring an emergency; approved March 8, 1913.

[H. 332. Approved March 10, 1915.]

Highways—Improved—City Streets Excepted.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section one (1) of an act entitled, 'An act to amend section 2 of an act entitled, an act to amend section one (1) of an act entitled, 'An act to amend section seventy (70) and seventy-five (75) of an act entitled, "An act concerning highways," approved February 25, 1907; and section seventy-two (72) of an act entitled, "An act concerning highways," approved March 6, 1905," approved March 8, 1909,' approved March 11, 1913; be amended to read as follows: Section 72. If all the roads described in the report of engineer and viewers are connected with each other so as to form one system, the whole may be voted upon as one road, if the petitioners so pray in their petition. If two or more petitions respecting roads in the same township shall be pending at the same time, they shall be voted upon at the same election. No improvement of any street in any incorporated city or town shall be made under the provisions of this act, where the whole of said improvement lies within the corporate limits of any said city or town.

Bond Issue—Limited to Four Per Cent.

SEC. 2. That section one of an act entitled, 'An act limiting the issuance of bonds, or other evidences of indebtedness payable by taxation, for the construction of free gravel or macadamized roads, approved March 14, 1913,' be amended to read as follows: Section 1. That it shall be unlawful for any board of county commissioners in the State of Indiana, to issue bonds, or any other evidence of indebtedness payable by taxation, for the construction of free gravel or macadamized roads under any law in force in this state, when the total issue for that purpose, includ-

ing bonds already issued and to be issued, is in excess of four (4) per centum of the total assessed valuation (after deducting all mortgage exemptions) of the property of the township or townships wherein such roads are located or to be located, and all bonds or obligations issued in violation of this act shall be void; *Provided,* That all such bonds shall be issued in the order in which the judgments establishing the respective roads are rendered; *Provided, further,* That in determining the total issue of bonds as herein referred to the amount of tax collectible during the current year for the payment of road bonds then issued and outstanding and for which the tax levy has already been made shall be deducted from the aggregate total of such bonds, and the amount remaining shall be and constitute the total issue of such bonds as herein defined: *and Provided further,* That no petition shall be filed when the cost of the road petitioned for would make the total bond issue exceed said four (4) per centum, except those petitions which have heretofore been filed and publication of notice thereof made.

Election Called—Three Mile Law.

SEC. 3. That section two (2) of an act entitled, An act to amend section one (1) of an act entitled, An act to amend section sixty-three of an act entitled, An act concerning highways, approved March 8, 1905; approved Mar 2, 1907; and to amend section one (1) of an act entitled, An act to amend section one of an act entitled, An act to amend sections seventy (70) and seventy-five (75) of an act entitled, An act concerning highways; approved February 25, 1907; and section seventy-two (72) of an act entitled, An act concerning highways, approved March 6, 1905; approved March 8, 1909; and to amend section seventy-six (76) of an act entitled, An act concerning highways, approved Mar 8, 1905; and declaring an emergency, approved March 8, 1913; be amended to read as follows: Section 70. When all matters in respect to damages have been determined finally, as hereinbefore provided, such board of commissioners shall examine the reports and profile made by engineer and viewers and may either approve said report or may adopt such modifications and amendments to such report as said board may deem neces-

sary and proper, and said board may require the services of the engineer and viewers in fixing and adopting such modifications and amendments, and when such report shall have been accepted and approved or modified and amended by said court they shall make an order requiring the auditor to give notice by publication for three consecutive weeks in a weekly newspaper of general circulation, printed and published in said county, that on a day to be named by the board the polls will be opened at the several voting places in each township named in the petition and report for the purpose of taking the votes of the legal voters thereof, whether the proposed new highway or highways named in the petition and report shall be laid out, established, graded, drained and paved, or the public highway or highways named therein shall be graded, drained and paved and that said petition and report and all records and matters pertaining to said matters may be found at the office of said auditor, and the auditor shall publish such notice as required by the order: *Provided,* That said publication shall contain the report of the viewers and engineer, excepting the plats and profiles: *and Provided, further,* That if any petition filed as provided in section 63 of this act calls for the building or improvement of a road three miles or less in length connecting at each end with an improved free gravel or macadamized road either within said township or townships, or at the boundaries thereof, or connecting a free gravel or macadamized road with a boundary of said township, or connecting an improved free gravel or macadamized road with the boundary line of any incorporated city or town in the same township, or connecting the boundary line of any incorporated city or town with the boundary line of the township in which said incorporated city or town is situated, the board of county commissioners may, in their discretion, if they find said petition otherwise complies with this act, establish and order the construction of said road without submitting the question of building the same to an election of the voters of the township or townships concerned: *Provided,* That if, within twenty days after the day set for the hearing of said petition, there shall be filed with the board of commissioners, a remonstrance signed by a greater number of the freeholders and voters of the township or townships, to be affected

by such petition, then appear upon said petition asking that said highway, three miles or less in length, shall not be opened and improved, or improved as therein asked, then said board of commissioners shall not order said road improved and said petition shall be dismissed at the cost of the petitioners. But if no such remonstrance is filed, as above provided, said board may proceed to have said road constructed in all other respects as if submitted to an election and voted as hereinafter provided: *Provided,* That no person signing said petition shall be counted on any remonstrance against such petition; *Provided, further,* That any tax payer of the county aggrieved by the action of said board, may appeal from its decision to the circuit court of said county within ten days in the same manner as other appeals are taken from the action of such board, and said cause shall by said circuit court be tried de novo.

Township Line—Petition.

"SEC. 4. That section one (1) of an act entitled, An act to amend section one (1) of an act entitled, An act to amend section sixty-three (63) of an act entitled, An act concerning highways, approved March 8, 1905; approved March 2, 1907; and to amend section one (1) of an act entitled, An act to amend section one (1) of an act entitled, An act to amend sections seventy (70) and seventy-five (75) of an act entitled, An act concerning highways; approved February 25, 1907; and section seventy-two (72) of an act entitled, An act concerning highways; approved March 6, 1905; approved March 8, 1909; and to amend section seventy-six (76) of an act entitled, An act concerning highways, approved March 8, 1905; and declaring an emergency; approved March 8, 1913; be amended to read as follows: Section 63. Whenever a petition signed by 50 or more freeholders and voters of any township of any county in this state praying that any public highway or highways within such township shall be laid out, established and improved by grading, draining and paving with stone, gravel, or other road paving material, including brick, or that any public highway or highways already established shall be graded, drained or paved with stone, gravel or other road paving material, including brick; or by 50 or more freehold voters of two or more townships

in such county praying that such public highway shall be laid out, graded, drained and paved on a line dividing such townships, or that a highway on such line shall be graded, drained and paved, shall be addressed to the board of commissioners of the county in which such township or townships are located and filed in the office of the auditor of such county, it shall be the duty of such auditor to cause to be published in a weekly newspaper of general circulation printed and published in such county, and to be posted in not less than three public places within each of the townships named in such petition, and at the door of the court house of such county a notice setting forth the township in which the same is located, a description of the highway proposed to be improved, the term of court and the day upon which the same will be presented for hearing before said board of commissioners: *Provided,* That in any township in this state in which there are not to exceed 100 freehold voters, then upon a petition of a majority of the freehold voters of any such township to the board of county commissioners for the improvement of any road or roads, as required by 50 freehold voters, as in this act provided, then this act shall apply in all such cases, and the board of county commissioners shall proceed under such petition and notice according to the provisions of this act, the same as if upon the petition of 50 freehold voters, as in this act provided.

JOINT TOWNSHIP ROADS.

CHAPTER 186.

AN ACT to amend section one (1) of an act entitled, "An act to amend section sixty-two (62) of an act entitled, 'An act concerning highways, approved March 8, 1905, and declaring an emergency,'" approved March 15, 1913.

[S. 161. Approved March 11, 1915.]

Highways—Joint Township Roads—How Constructed.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section one (1) of the above entitled act be amended to read as follows: Section 1. That section sixty-two (62) be amended to read as follows: Sec-

tion 62. That boards of commissioners of the several counties of the State of Indiana are hereby authorized and empowered to lay out, establish and cause to be graded, drained and paved with stone, gravel, brick or combination thereof, or other road paving material any new highway or part of a highway in any township or townships in said state, and to cause to be straightened, graded, drained and improved in like manner any public highway or part of a highway already established in any such township or townships, in the manner and upon the conditions hereinafter prescribed: *Provided,* That where any such improvements are hereafter made of any highways or parts of highways extending into or through two or more townships, the board of commissioners shall fix, in the order finally establishing and ordering such improvements made, the ratio, proportion or part that each of such townships affected, and to be assessed, shall pay and be assessable with, of the costs of such improvements, by fixing and assessing against each such township that part of the costs according to the amount estimated for the improvement to be made in each such township, so that each township shall pay for the improvement therein made in such proportion as such board shall so fix in its order: *Provided, however,* That such improvements and all steps taken therein, shall be taken and such improvements made under and in pursuance to the several sections of the above entitled act, and the several amendments heretofore made thereto; and that when such improvements shall be asked to be made, to run into or through two or more townships, the petition filed shall be signed by not less than twenty legal petitioners from each township sought to be affected: *Provided, further,* That in all cases in said state where petitions have been filed for the improvement of any highway or part of highway or highways running into or through two (2) or more townships; and proceedings have been had as required for making such improvements in a township in said state, and an order has been made authorizing and establishing such improvements in two (2) or more townships under the provisions of the above entitled act, and in such order such board has fixed the proportion to be paid by each of such townships, in proportion to the amount of improvements to be made in the several townships as

found and fixed by such boards, and contracts have been let for the making of such improvements, that any and all bonds issued and hereafter issued, to be sold for the purpose of providing money for the construction of any such improvements are hereby legalized; and any and all bonds heretofore sold under such proceedings and the purchase price received and retained or used in making the improvements for which such bonds were sold, are hereby legalized, and all proceedings or acts of any such boards or other officers under which such bonds were issued and sold are hereby fully legalized and declared valid; and the several boards of commissioners of this state are hereby empowered to issue and sell bonds in such cases aforesaid, and the county treasurer is hereby authorized to sell any and all such bonds issued and to be issued as he is authorized to sell other bonds for improvements under the said act of 1905 and amendments thereto : *Provided,* That the rebuilding of free gravel or macadam highways shall be done in the same manner as the building or improvements of highways: *and Provided, further,* That all petitions for rebuilding of such roads begun under an act entitled, "An act to amend section sixty-two (62) of an act entitled, 'An act concerning highways,' approved March 8, 1905, and declaring an emergency," approved March 15, 1913, are hereby validated and continued the same as if the same had been filed under the provisions of this act: *Provided,* That nothing in this act shall affect or apply to any pending litigation.

Emergency.

SEC. 2. Whereas, an emergency exists for the immediate taking effect of this act, and the same shall be in full force and effect from and after its passage.

AUTOMOBILES.

LAWS FOR REPAIRS AND STORAGE.

CHAPTER 167.

AN ACT, to amend, "An act, to give a person, firm or corporation or others engaged in storing or furnishing supplies for repairing automobiles, or motor truck, or person, firm or corporation maintaining an automobile garage a lien upon automobiles or motor trucks stored or kept, or for which supplies are furnished or upon which repairs are made, providing a means of foreclosing the same and declaring an emergency, approved March 15, 1913," and providing for attorney's fees, and extending the same to include and cover moterbicycles [motorbicycles.].

[S. 241. Approved March 10, 1915.]

Automobiles and Motorcycles—Liens.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana;* That every person, firm or corporation, or others engaged in storing or furnishing supplies for, or repairing an automobile or motor truck or motorbicycles, or every person, firm or corporation or others maintaining automobile garages shall have a lien on such automobiles, or motor trucks or motorbicycles stored, for storage charges or charges for keeping any such automobile or motor truck or motorbicycle or for furnishing supplies for, or repairs done on such automobile or motor truck or motorbicycle.

Filing Liens.

SEC. 2. Any person, firm or corporation wishing to acquire such lien upon any automobile, motor truck or other motor vehicle whether said claim is due or not, shall file in the recorder's office of the county where the work was done within sixty days after storing, furnishing supplies or repairing such automobile, motor truck or other motor vehicle or furnishing accessories or material of any kind for the maintaining of said automobile, motor truck or other motor vehicle as described in section 1 of this act, notice of intention to hold a lien upon such automobile, motor truck or other motor vehicle for the amount of his or their claim specifically setting forth the amount claimed and give a sub-

stantial description of such automobile, motor truck or other vehicle. Any description in a notice of a lien will be sufficient, if by such description such automobile, motor truck or other motor vehicle can be identified.

Lien Recorded.

SEC. 3. The recorder of the county where such lien is filed shall record the same as is now provided for by law the same as mechanic liens.

Foreclosure of Lien.

SEC. 4. Said lien may be foreclosed as equitable liens are now foreclosed in the circuit court of the county where said automobile or motor truck or motorbicycle is located by the filing of a complaint at any time within one year from the failure or refusal of the owner of said automobile, or motor truck or motorbicycle to pay the storage charges or the charges for repairs done on, or supplies furnished for any such automobile or motor truck or motorbicycle, as specified in section one of this act.

Attorneys Fees.

SEC. 5. In all suits brought for the enforcement of any lien under the provisions of this act, if the plaintiff or lien holder shall recover judgment in any sum, he shall also be entitled to reasonable attorney's fees, which shall be entered by the court trying the same as part of the judgment.

Act Supplemental.

SEC. 6. This act shall not be construed as repealing any other law now in force concerning liens or the foreclosure of sale [same], but this act is intended to be supplemental to all laws now in force concerning liens and the foreclosure of same.

GAME LAWS.

FISHING HOOKS.

CHAPTER 16.

AN ACT to amend section two (2) of an act entitled, "An act for the preservation of the fish and game of the state, defining certain offenses, in reference thereto, and prescribing penalties for the violation thereof, and other matters incident thereto, and declaring an emergency," approved March 8, 1913.

[H. 14. Approved February 22, 1915.]

Public Offenses—Fishing—Size of Hook.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section two (2) of the above entitled act be amended to read as follows: Section 2. Whoever fishes in any of the waters of this state with any trot line or set line of any kind having any hook or hooks thereon smaller than five sixteenths (5-16) of an inch from point of hook to the shank, or with any line and hook of any kind attached to any bottle, or to any floating device whatever, shall, on conviction be fined not less than five dollars ($5.00) nor more than fifty dollars ($50.00) for each offense: *Provided,* That the provisions of this section shall not apply to the Ohio river, Lake Michigan, nor the Wabash river so far as it is the boundary line between the States of Indiana and Illinois.

SOLDIERS NO LICENSE.

CHAPTER 44.

AN ACT exempting old soldiers from the requirements for hunting and fishing licenses.

[H. 81. Approved March 3, 1915.]

Hunting and Fishing—Soldiers and Sailors—License Not Required.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That any honorably discharged soldier, sailor or marine of the United States who shall have served in the civil war shall be entitled to fish or hunt during any open season for fish or game in the State of Indiana without procuring a license as required by law.

BIRDS IN CAPTIVITY.

CHAPTER 46.

AN ACT concerning the keeping and disposing of birds and animals reared and bred in captivity.

[H. 37. Approved March 3, 1915.]

Birds and Animals—Reared in Captivity—Right to Sell.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That all birds and animals reared and bred in captivity, shall be considered domestic fowls and stock, and the owner or raiser thereof may keep, sell, ship, transport or otherwise dispose of them, and the same shall not be affected or covered by the laws prohibiting or regulating the killing or disposition of birds and animals grown or propagated in a wild state.

HUNTING—SEARCHLIGHT.

CHAPTER 54.

AN ACT to prohibit the use of searchlights or other artificial lights attached to automobiles, in hunting, and making it unlawful to shoot across, along or upon a public highway, and providing penalties therefor.

[S. 222. Approved March 5, 1915.]

Public Offenses—Hunting With Searchlight.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be unlawful for any person to hunt, or attempt to hunt, by means of any searchlight or other artificial light attached to an automobile, any species of game upon any highway or within one hundred fifty yards on either side of said highway anywhere in the State of Indiana.

Shooting on Public Highways.

SEC. 2. It shall be unlawful for any person, to shoot, or ause to be shot, any firearm of any description across, along r upon any public highway in the State of Indiana, except fficers of the law when in discharge of their duty.

Penalty.

SEC. 3. Any person who violates any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than one dollar ($1.00), nor more than fifty dollars ($50.00), for each and every offense, or imprisonment for not less than ten (10) days nor more than sixty (60) days.

HUNTING.

CHAPTER 124.

AN ACT regulating the hunting of certain game birds in the State.

[H. 228. Approved March 9, 1915.]

Public Offenses—Hunting Game Birds.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be unlawful for any person, firm or corporation to hunt, shoot or kill, pursue for the purpose of shooting or killing or have in his possession dead or alive or to sell or offer for sale except for breeding purposes any prairie chicken, any ring-neck Mongolian pheasant, any green Japanese pheasant, any copper pheasant or scholmeringer, any tragopan pheasant, silver pheasant, golden pheasant, Hungarian pheasant or Hungarian partridge at any time during the year except that it shall be lawful to hunt, shoot and kill prairie chickens during the period from October fifteenth (15) to November first (1) of any one year: *Provided,* That during that period no one person shall be entitled to kill more than five (5) prairie chickens in any one day.

Penalty.

SEC. 2. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined in any sum from ten dollars ($10) to fifty ($50) dollars.

Emergency.

SEC. 3. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

DOG.

CHAPTER 125.

AN ACT entitled, An act to exempt registered bloodhounds that are used or kept for the purpose of detecting crime, or apprehending criminals, from taxation.

[H. 421. Approved March 9, 1915.]

Taxation—Bloodhounds Exempt.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That all registered bloodhounds that are used or kept for the purpose of detecting crime, or apprehending criminals, when so used or kept for such purpose, shall be exempt from taxation.

Repeal.

SEC. 2. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Emergency.

SEC. 3. Whereas, an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

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